

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 the
7 operation of the lottery under a management agreement;
8 amending s. 24.103, F.S.; providing and revising
9 definitions; amending s. 24.104, F.S.; revising provisions
10 concerning the purpose of the Department of the Lottery to
11 permit contracting with a manager; amending s. 24.105,
12 F.S.; revising provisions concerning the powers and duties
13 of the department to allow for possible contracting with a
14 manager; providing that specified provisions apply
15 regardless of whether the department contracts with a
16 manager; deleting obsolete provisions; amending s. 24.107,
17 F.S.; revising provisions concerning advertising and
18 promotion of lottery games to conform to the possibility
19 of contracting with a manager; amending ss. 24.108 and
20 24.111, F.S.; revising provisions relating to security and
21 contracts for goods or services to conform to the
22 possibility of contracting with a manager; creating s.
23 24.1115, F.S.; providing for a management agreement under
24 which the lottery may be operated; providing intent;
25 providing definitions; limiting the duration of such an
26 agreement; providing limits on the games that may be
27 offered under such an agreement; providing for an initial
28 payment to the department by a manager; providing for

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

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57 24.117, F.S.; revising a reference; amending s. 24.118,
58 F.S.; revising a reference; conforming provisions to the
59 possibility of contracting with a manager; amending s.
60 24.120, F.S.; revising a reference; conforming provisions
61 to the possibility of contracting with a manager; amending
62 s. 24.121, F.S.; revising provisions relating to
63 allocation of revenues and expenditure of funds for public
64 education to conform to the possibility of contracting
65 with a manager; providing for a minimum allocation of
66 proceeds received under a management agreement to the
67 Florida Bright Futures Scholarship Program; amending ss.
68 24.122, 24.123, and 24.124, F.S.; revising provisions
69 relating to an exemption from taxation, state preemption,
70 inapplicability of other laws, annual audit of financial
71 records and reports, responsibility for ticket accuracy,
72 and liability to conform to the possibility of contracting
73 with a manager; providing an effective date.

74
75 Be It Enacted by the Legislature of the State of Florida:

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77 Section 1. Subsection (3) of section 20.317, Florida
78 Statutes, is amended to read:

79 20.317 Department of the Lottery.—There is created a
80 Department of the Lottery.

81 (3) The headquarters of the department shall be located in
82 Tallahassee. However, the department may establish such regional
83 offices throughout the state as the secretary deems necessary to
84 perform its duties concerning the efficient operation of the

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85 state lottery.

86 Section 2. Section 24.101, Florida Statutes, is amended to
87 read:

88 24.101 Short title.—This chapter ~~act~~ may be cited as the
89 "Florida Public Education Lottery Act."

90 Section 3. Section 24.102, Florida Statutes, is amended to
91 read:

92 24.102 Purpose and intent.—

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

98 (2) The intent of the Legislature is:

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

103 (b) That the lottery games be operated by a department of
104 state government that functions as much as possible in the
105 manner of an entrepreneurial business enterprise or with the
106 assistance of an entrepreneurial business enterprise under a
107 management agreement overseen by the department. The Legislature
108 recognizes that the operation of a lottery is a unique activity
109 for state government and that structures and procedures
110 appropriate to the performance of other governmental functions
111 are not necessarily appropriate to the operation of a state
112 lottery.

113 (c) That the lottery games be operated by a self-
 114 supporting, revenue-producing department or with the assistance
 115 of an entrepreneurial business enterprise under a management
 116 agreement with government oversight.

117 (d) That the department be accountable to the Legislature
 118 and the people of the state through a system of audits and
 119 reports and through compliance with financial disclosure, open
 120 meetings, and public records laws and that any entity contracted
 121 with under a management agreement must also be accountable to
 122 the Legislature and the people of the state.

123 Section 4. Section 24.103, Florida Statutes, is renumbered
 124 and amended to read:

125 24.103 Definitions.—As used in this chapter act:

126 (1) "Department" means the Department of the Lottery.

127 (2)(4) "Major procurement" means a procurement for a
 128 contract for the printing of tickets for use in any lottery
 129 game, consultation services for the startup of the lottery, any
 130 goods or services involving the official recording for lottery
 131 game play purposes of a player's selections in any lottery game
 132 involving player selections, any goods or services involving the
 133 receiving of a player's selection directly from a player in any
 134 lottery game involving player selections, any goods or services
 135 involving the drawing, determination, or generation of winners
 136 in any lottery game, the security report services provided for
 137 in this chapter act, or any goods and services relating to
 138 marketing and promotion that ~~which~~ exceed a value of \$25,000.

139 (3) "Management agreement" means that agreement entered
 140 into pursuant to which the state may contract with a manager to

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141 provide management services to the lottery, although under such
142 an agreement the department shall continue to manage and operate
143 the lottery, and further pursuant to which the manager may
144 receive a certain share of lottery ticket sales or related
145 proceeds in consideration of the payment of a fee or fees to the
146 state.

147 (4) "Manager" means an entity that provides management
148 services to the lottery on behalf of the department under a
149 management agreement.

150 (5)~~(3)~~ "Person" means any individual, firm, association,
151 joint adventure, partnership, estate, trust, syndicate,
152 fiduciary, corporation, or other group or combination and shall
153 include any agency or political subdivision of the state.

154 (6)~~(5)~~ "Retailer" means a person who sells lottery tickets
155 on behalf of the department or the manager pursuant to a
156 contract.

157 (7)~~(2)~~ "Secretary" means the secretary of the department.

158 (8)~~(6)~~ "Vendor" means a person who provides or proposes to
159 provide goods or services to the department, but does not
160 include an employee of the department, a retailer, or a state
161 agency.

162 Section 5. Section 24.104, Florida Statutes, is amended to
163 read:

164 24.104 Department; purpose.—The purpose of the department
165 is to operate the state lottery as authorized by s. 15, Art. X
166 of the State Constitution with or without a manager so as to
167 maximize revenues in a manner consonant with the dignity of the
168 state and the welfare of its citizens.

169 Section 6. Subsections (2), (4), (6), (7), (9), (11),
 170 (15), (17), (18), and (19) of section 24.105, Florida Statutes,
 171 are amended to read:

172 24.105 Powers and duties of department.—The department
 173 shall:

174 (2) Supervise and administer the operation of the lottery
 175 with or without a manager in accordance with the provisions of
 176 this chapter ~~act~~ and rules adopted pursuant thereto.

177 (4) Submit monthly and annual reports to the Governor, the
 178 Chief Financial Officer, the President of the Senate, and the
 179 Speaker of the House of Representatives disclosing the total
 180 lottery revenues, prize disbursements, and other expenses of the
 181 department during the preceding month or, if the lottery has
 182 entered into a management agreement, comparable information
 183 provided by the manager. The annual report shall additionally
 184 describe the organizational structure of the department,
 185 including its hierarchical structure, and shall identify the
 186 divisions and bureaus created by the secretary and summarize the
 187 departmental functions performed by each.

188 (6) Maintain weekly or more frequent records of lottery
 189 transactions, including the distribution of tickets to
 190 retailers, revenues received, claims for prizes, prizes paid,
 191 and other financial transactions of the department. If the
 192 department has entered into a management agreement, the
 193 agreement shall require the manager to maintain comparable
 194 information.

195 (7) Make a continuing study of the lottery to ascertain
 196 any defects of this chapter ~~act~~ or rules adopted thereunder

197 | which could result in abuses in the administration of the
 198 | lottery; make a continuing study of the operation and the
 199 | administration of similar laws in other states and of federal
 200 | laws that ~~which~~ may affect the lottery; and, if the department
 201 | has not entered into a management agreement, make a continuing
 202 | study of the reaction of the public to existing and potential
 203 | features of the lottery.

204 | (9) Adopt rules governing the establishment and operation
 205 | of the state lottery, including:

206 | (a) 1. The type of lottery games to be conducted.

207 | 2. Regardless of whether the department has entered into a
 208 | management agreement, ~~except that:~~

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

213 | b.2. No coins or currency shall be dispensed from any
 214 | electronic computer terminal or device used in any lottery game.

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

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

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

241 | (b) The sales price of tickets.

242 | (c) The number and sizes of prizes.

243 | (d) The method of selecting winning tickets. However,
 244 | regardless of whether the department has entered into a
 245 | management agreement, if a lottery game involves a drawing, the
 246 | drawing shall be public and witnessed by an accountant employed
 247 | by an independent certified public accounting firm. The
 248 | equipment used in the drawing shall be inspected before and
 249 | after the drawing.

250 | (e) The manner of payment of prizes to holders of winning
 251 | tickets.

252 | (f) The frequency of drawings or selections of winning

253 tickets.

254 (g) The number and type of locations at which tickets may
255 be purchased.

256 (h) The method to be used in selling tickets.

257 (i) The manner and amount of compensation of retailers.

258 (j) Such other matters necessary or desirable for the
259 efficient or economical operation of the lottery or for the
260 convenience of the public.

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

268 (15) Or the manager, if any, shall have the authority to
269 charge fees to persons applying for contracts as vendors or
270 retailers, which fees are reasonably calculated to cover the
271 costs of investigations and other activities related to the
272 processing of the application.

273 (17) Or the manager, if any, shall, in accordance with the
274 provisions of this chapter ~~act,~~ enter into contracts with
275 retailers so as to provide adequate and convenient availability
276 of tickets to the public for each game.

277 (18) Or the manager, if any, shall have the authority to
278 enter into agreements with other states for the operation and
279 promotion of a multistate lottery if such agreements are in the
280 best interest of the state lottery. ~~The authority conferred by~~

281 ~~this subsection is not effective until 1 year after the first~~
 282 ~~day of lottery ticket sales.~~

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

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

291 1. The person has been pardoned or his or her civil rights
 292 have been restored; or

293 2. Subsequent to such conviction or entry of plea the
 294 person has engaged in the kind of law-abiding commerce and good
 295 citizenship that would reflect well upon the integrity of the
 296 lottery.

297 (b) No officer or employee of the department having
 298 decisionmaking authority shall participate in any decision
 299 involving any vendor or retailer with whom the officer or
 300 employee has a financial interest. No such officer or employee
 301 may participate in any decision involving any vendor or retailer
 302 with whom the officer or employee has discussed employment
 303 opportunities without the approval of the secretary or, if such
 304 officer is the secretary, without the approval of the Governor.
 305 Any officer or employee of the department shall notify the
 306 secretary of any such discussion or, if such officer is the
 307 secretary, he or she shall notify the Governor. A violation of
 308 this paragraph is punishable in accordance with s. 112.317.

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

317 (d) The department shall establish and maintain a
318 personnel program for its employees, including a personnel
319 classification and pay plan which may provide any or all of the
320 benefits provided in the Senior Management Service or Selected
321 Exempt Service. Each officer or employee of the department shall
322 be a member of the Florida Retirement System. The retirement
323 class of each officer or employee shall be the same as other
324 persons performing comparable functions for other agencies.
325 Employees of the department shall serve at the pleasure of the
326 secretary and shall be subject to suspension, dismissal,
327 reduction in pay, demotion, transfer, or other personnel action
328 at the discretion of the secretary. Such personnel actions are
329 exempt from the provisions of chapter 120. All employees of the
330 department are exempt from the Career Service System provided in
331 chapter 110 and, notwithstanding the provisions of s.
332 110.205(5), are not included in either the Senior Management
333 Service or the Selected Exempt Service. However, all employees
334 of the department are subject to all standards of conduct
335 adopted by rule for career service and senior management
336 employees pursuant to chapter 110. In the event of a conflict

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337 between standards of conduct applicable to employees of the
338 Department of the Lottery the more restrictive standard shall
339 apply. Interpretations as to the more restrictive standard may
340 be provided by the Commission on Ethics upon request of an
341 advisory opinion pursuant to s. 112.322(3)(a), for purposes of
342 this subsection the opinion shall be considered final action.

343 (e) If the department enters into a management agreement,
344 no employee or contractor of the manager shall receive
345 membership in the Florida Retirement System or any other state
346 retirement or other state employee benefits on the basis of such
347 employment or contract.

348 Section 7. Section 24.107, Florida Statutes, is amended to
349 read:

350 24.107 Advertising and promotion of lottery games.—

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

358 (2) The department or the manager, if any, may act as a
359 retailer and may conduct promotions that ~~which~~ involve the
360 dispensing of lottery tickets free of charge.

361 Section 8. Subsections (2), (5), and (7) of section
362 24.108, Florida Statutes, are amended to read:

363 24.108 Division of Security; duties; security report.—

364 (2) The director and all investigators employed by the

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

385 | (5) The Department of Law Enforcement shall provide
386 | assistance in obtaining criminal history information relevant to
387 | investigations required for honest, secure, and exemplary
388 | lottery operations, and such other assistance as may be
389 | requested by the secretary and agreed to by the executive
390 | director of the Department of Law Enforcement. Any other state
391 | agency, including the Department of Business and Professional
392 | Regulation and the Department of Revenue, shall, upon request,

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393 provide the Department of the Lottery with any information
394 relevant to any investigation conducted pursuant to this chapter
395 ~~act~~. The Department of the Lottery shall maintain the
396 confidentiality of any confidential information it receives from
397 any other agency. The Department of the Lottery shall reimburse
398 any agency for the actual cost of providing any assistance
399 pursuant to this subsection.

400 (7) (a) ~~After the first full year of sales of tickets to~~
401 ~~the public, or sooner if the secretary deems necessary,~~ The
402 department shall, as it deems appropriate, but at least once
403 every 2 years engage an independent firm experienced in security
404 procedures, including, but not limited to, computer security and
405 systems security, to conduct a comprehensive study and
406 evaluation of all aspects of security in the operation of the
407 department.

408 (b) The portion of the security report containing the
409 overall evaluation of the department in terms of each aspect of
410 security shall be presented to the Governor, the President of
411 the Senate, and the Speaker of the House of Representatives. The
412 portion of the security report containing specific
413 recommendations shall be confidential and shall be presented
414 only to the secretary, the Governor, and the Auditor General;
415 however, upon certification that such information is necessary
416 for the purpose of effecting legislative changes, such
417 information shall be disclosed to the President of the Senate
418 and the Speaker of the House of Representatives, who may
419 disclose such information to members of the Legislature and
420 legislative staff as necessary to effect such purpose. However,

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421 any person who receives a copy of such information or other
422 information that ~~which~~ is confidential pursuant to this chapter
423 ~~act~~ or rule of the department shall maintain its
424 confidentiality. The confidential portion of the report is
425 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
426 of the State Constitution.

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

430 Section 9. Subsection (1) of section 24.111, Florida
431 Statutes, is amended to read:

432 24.111 Vendors; disclosure and contract requirements.—

433 (1) The department may enter into contracts for the
434 purchase, lease, or lease-purchase of such goods or services as
435 are necessary for effectuating the purposes of this chapter ~~act~~.
436 The department may ~~not~~ contract with any person or entity for
437 the total operation and administration of the state lottery
438 established by this chapter as provided in s. 24.1115 ~~act but~~
439 may make procurements that ~~which~~ integrate functions such as
440 lottery game design, supply of goods and services, and
441 advertising. In all procurement decisions, the department shall
442 take into account the particularly sensitive nature of the state
443 lottery and shall consider the competence, quality of product,
444 experience, and timely performance of the vendors in order to
445 promote and ensure security, honesty, fairness, and integrity in
446 the operation and administration of the lottery and the
447 objective of raising net revenues for the benefit of the public
448 purpose described in this chapter ~~act~~.

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449 Section 10. Section 24.1115, Florida Statutes, is created
450 to read:

451 24.1115 Management agreement.—

452 (1) In construing this section, it is the intent of the
453 Legislature that the manager be accountable to the Legislature
454 and the people of this state through a system of audits and
455 reports and by complying with the financial disclosure
456 requirements of this section. The powers conferred by this
457 section are in addition and supplemental to the powers conferred
458 by any other law. If any other law or rule is inconsistent with
459 this section, this section shall control as to any management
460 agreement entered into under this section.

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

462 (a) "Offeror" means a person or group of persons that
463 responds to a request for qualifications under this section.

464 (b) "Request for qualifications" means all materials and
465 documents prepared by the department to solicit the following
466 from offerors:

467 1. Statements of qualifications.

468 2. Proposals to enter into a management agreement.

469 (c) "Selected offer" means the final offer of an offeror
470 that is the preliminary selection to be the manager for the
471 lottery under subsection (12).

472 (3) (a) This section contains full and complete authority
473 for a management agreement between the department and a manager
474 and any rules adopted thereunder. No law, procedure, proceeding,
475 publication, notice, consent, approval, order, or act by the
476 department or any other officer, department, agency, or

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477 instrumentality of the state or any political subdivision is
478 required for the department to enter into a management agreement
479 under this section.

480 (b) This section contains full and complete authority for
481 the department to approve any subcontracts entered into by a
482 manager under the terms of a management agreement.

483 (4) Subject to the other provisions of this section, the
484 department may enter into a management agreement with a manager
485 for a term not to exceed 30 years.

486 (5) The department may not enter into a management
487 agreement that authorizes a manager to operate any of the
488 following games or a game simulating any of the following games:

489 (a) Video lottery games.

490 (b) Pari-mutuel wagering on any form of racing.

491 (c) A game in which winners are selected on the results of
492 a race or sporting event.

493 (d) Any other game commonly considered to be a form of
494 gambling that is not a game or a variation of a game that the
495 department operated before the management agreement is executed
496 or is operating on the date the management agreement is
497 executed.

498 (6) (a) The management agreement must establish a
499 substantial benchmark amount. The management agreement must
500 require the manager to make an initial payment to the department
501 on the effective date of the management agreement in an amount
502 that exceeds the benchmark amount established in the management
503 agreement.

504 (b) The initial payment required under paragraph (a) shall

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505 be deposited as provided in s. 24.121.

506 (c) If the manager fails to make any payment under this
507 section by the due date of the payment, the management agreement
508 is terminated.

509 (7) (a) The management agreement must require that all
510 lottery proceeds initially be directly deposited with the state.
511 The state shall provide sums due to the manager under the
512 agreement only after all of the manager's obligations to the
513 state have been satisfied.

514 (b) The state shall retain an annual amount at least equal
515 to the lottery proceeds for the last fiscal year preceding the
516 agreement beginning on a date specified in the management
517 agreement and occurring during the first year after the
518 execution of the management agreement. For the purposes of this
519 subsection, such annual amount shall be referred to as the
520 "state annuity." The state annuity received under this
521 subsection shall be deposited as provided in s. 24.121.

522 (c) The management agreement must include the following
523 provisions to ensure that the manager does not earn excess
524 revenue under the management agreement:

525 1. The Office of Policy and Budget in the Executive Office
526 of the Governor shall calculate the percentage rate of average
527 annual growth in gross revenue earned by the department during
528 the last 5 full state fiscal years preceding the commencement of
529 the management agreement. For purposes of this subsection, this
530 percentage is referred to as the "baseline growth percentage."

531 2. Beginning with the second full state fiscal year after
532 the execution of the management agreement, the Office of Policy

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533 and Budget in the Executive Office of the Governor shall for
534 each state fiscal year calculate the growth, expressed as a
535 percentage, in gross revenue earned by the manager under the
536 management agreement, as compared to the preceding state fiscal
537 year.

538 3. The department shall establish an excess payments
539 account for purposes of this paragraph. Any earnings from money
540 in the excess payments account accrue to the account. Money in
541 the excess payments account may be used only to make payments to
542 a manager as required by this paragraph and to receive payments
543 from a manager as required by this paragraph.

544 4. If the percentage calculated by the Office of Policy
545 and Budget in the Executive Office of the Governor under
546 subparagraph 2. for a particular state fiscal year exceeds the
547 baseline growth percentage, the manager must make an additional
548 payment to the department. The amount of the additional payment
549 for the state fiscal year is equal to the gross revenue earned
550 by the manager from lottery tickets in the state fiscal year
551 multiplied by one-half the difference between the percentage
552 calculated by the Office of Policy and Budget in the Executive
553 Office of the Governor under subparagraph 2. for the state
554 fiscal year and the baseline growth percentage. The department
555 shall deposit any additional payment made by the manager under
556 this subparagraph into the excess payments account.

557 5. If the baseline growth percentage exceeds the
558 percentage calculated by the Office of Policy and Budget in the
559 Executive Office of the Governor under subparagraph 2. for a
560 particular state fiscal year, the department must make a payment

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561 to the manager from the excess payments account. However, the
562 department is required to make a payment to the manager only if
563 the excess payments account has a positive balance. The amount
564 of the payment by the department for the state fiscal year is
565 equal to the lesser of:

566 a. The result of the gross revenue earned by the manager
567 from lottery tickets in the state fiscal year multiplied by one-
568 half the difference between the baseline growth percentage and
569 the percentage calculated by the Office of Policy and Budget in
570 the Executive Office of the Governor under subparagraph 2. for
571 the state fiscal year; or

572 b. The balance in the excess payments account.

573 6. The management agreement must specify the time by which
574 a payment required under this paragraph shall be made.

575 7. If at the expiration or termination of the management
576 agreement there is money remaining in the excess payments
577 account, it shall be retained by the department and deposited as
578 provided in s. 24.121.

579 (8) A management agreement must contain the following:

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

581 (b) A requirement that the manager locate its principal
582 office within this state.

583 (c) So long as manager complies with all the conditions of
584 the agreement under the oversight of the department, the manager
585 shall perform its duties and obligations with respect to
586 management of the operation of the lottery, including the
587 following:

588 1. The right to use, or ownership of, equipment and other

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- 589 assets used in the operation of the lottery.
- 590 2. The rights and obligations under contracts with
591 retailers and vendors.
- 592 3. The implementation of a comprehensive security program
593 by the manager.
- 594 4. The implementation of a comprehensive system of
595 internal audits.
- 596 5. The implementation of a program by the manager to curb
597 compulsive gambling by persons playing the lottery.
- 598 6. A system for determining the following:
- 599 a. The type of lottery games to be conducted.
- 600 b. The method of selecting winning tickets.
- 601 c. The manner of payment of prizes to holders of winning
602 tickets.
- 603 d. The frequency of drawings of winning tickets.
- 604 e. The method to be used in selling tickets.
- 605 f. A system for verifying the validity of tickets claimed
606 to be winning tickets.
- 607 g. The basis upon which retailer commissions are
608 established by the manager.
- 609 h. Minimum payouts.
- 610 7. A requirement that advertising and promotion must be
611 consistent with the dignity and integrity of the state.
- 612 (d) Guidelines to ensure that advertising and promoting of
613 the lottery by the manager are not misleading and fairly balance
614 the potential benefits and the potential costs and risks of
615 playing lottery games.
- 616 (e) A code of ethics for the manager's officers and

617 employees.

618 (f) A requirement that the department monitor the
619 manager's practices and take action that the department
620 considers appropriate to ensure that the manager is in
621 compliance with the terms of the management agreement, while
622 allowing the manager, unless specifically prohibited by law or
623 the management agreement, to negotiate and sign its own
624 contracts with vendors.

625 (g) A provision requiring the manager to periodically file
626 appropriate financial statements in a form and manner acceptable
627 to the department.

628 (h) Cash reserve requirements.

629 (i) Procedural requirements for obtaining approval by the
630 department when a management agreement or an interest in a
631 management agreement is sold, assigned, transferred, or pledged
632 as collateral to secure financing. A management agreement or an
633 interest in a management agreement may not be sold, assigned,
634 transferred, or pledged as collateral to secure financing
635 without the approval of the department.

636 (j) Grounds for termination of the management agreement by
637 the department or the manager.

638 (k) Procedures for amendment of the agreement.

639 (l) A provision prohibiting the department from entering
640 into another management agreement under this section as long as
641 the original management agreement has not been terminated.

642 (m) The transition of rights and obligations, including
643 any associated equipment or other assets used in the operation
644 of the lottery, from the manager to any successor manager of the

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645 lottery, including the department, following the termination of
646 or foreclosure upon the management agreement.

647 (n) Ownership of all copyrights, trademarks, and service
648 marks by the department in the name of the state and that any
649 use of them by the manager shall only be for the purpose of
650 fulfilling its obligations under the management agreement during
651 the term of the agreement.

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

653 (9) (a) The manager shall undergo a complete investigation
654 every 3 years by the department to determine whether the manager
655 remains in compliance with this chapter and the management
656 agreement.

657 (b) The manager shall bear the cost of an investigation or
658 reinvestigation of the manager under this subsection.

659 (10) (a) Before the department enters into a management
660 agreement pursuant to this section, the secretary, as provided
661 in subsection (17), may retain an advisor or advisors to assess
662 the fiscal feasibility of such an agreement and help determine
663 whether to proceed. Such an advisor may also be retained by the
664 department to represent the department in the request for
665 qualifications process, if one is commenced. If the secretary
666 decides to pursue the possibility of a management agreement, a
667 request for qualifications must be issued as set forth in this
668 section. A request for qualifications for a management agreement
669 may be issued in one or more phases.

670 (b) A request for qualifications must include the
671 following:

672 1. The factors or criteria that will be used in evaluating

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673 an offeror's statement of qualifications and proposal.

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

676 3. A statement concerning whether discussions may be
677 conducted with the offerors for the purpose of clarification to
678 ensure full understanding of and responsiveness to the
679 solicitation requirements.

680 4. A statement concerning any other information to be
681 considered in evaluating the offeror's qualifications and
682 proposal.

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

687 (d) As provided in a request for qualifications,
688 discussions may be conducted with the offerors for the purpose
689 of clarification to ensure full understanding of and
690 responsiveness to the solicitation requirements.

691 (11) The contents of proposals are competitive sealed
692 replies in response to an invitation to negotiate for purposes
693 of s. 119.071(1)(b) and are exempt from s. 119.07(1) and s.
694 24(a), Art. I of the State Constitution until disclosure of the
695 contents that are not otherwise exempt under s. 119.071 or other
696 law is required under s. 119.071(1)(b).

697 (12)(a) The department may negotiate with one or more
698 offerors the department determines are responsible and
699 reasonably capable of managing the lottery and may seek to
700 obtain a final offer from one or more of those offerors.

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701 (b) The department shall consider the statement of
702 qualifications and the proposals to enter into a management
703 agreement that are submitted in response to a request for
704 qualifications in making a determination under this section,
705 including the following as they apply to the offeror and its
706 partners, if any:

707 1. Expertise, qualifications, competence, skills, and plan
708 to perform obligations under the management agreement in
709 accordance with the management agreement.

710 2. Financial strength, including capitalization and
711 available financial resources.

712 3. Experience in operating government-authorized lotteries
713 and gaming and other similar projects and the quality of any
714 past or present performance on similar or equivalent
715 engagements.

716 4. Integrity, background, and reputation.

717 (c) The requirements set forth in paragraph (b) also apply
718 to the approval of any successor manager.

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

721 1. Make a preliminary selection of an offeror as the
722 manager for the lottery; or

723 2. Terminate the request for qualifications process.

724 (b) If the department makes a preliminary selection of the
725 manager under this subsection, the department shall schedule a
726 public hearing on the preliminary selection and provide public
727 notice of the hearing at least 7 days before the hearing. The
728 notice must include the following:

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- 729 1. The date, time, and place of the hearing.
- 730 2. The subject matter of the hearing.
- 731 3. A brief description of the management agreement to be
732 awarded.
- 733 4. The identity of the offeror that has been preliminarily
734 selected as the manager.
- 735 5. The address and telephone number of the department.
- 736 6. A statement indicating that, subject to subsection
737 (11), and except for those parts that are confidential under s.
738 119.071 or other applicable law, the selected offer and an
739 explanation of the basis upon which the preliminary selection
740 was made are available for public inspection and copying at the
741 principal office of the department during regular business hours
742 and, to the extent feasible, on the Internet.
- 743 (c) Subject to subsection (11), and except for those parts
744 that are confidential under s. 119.071 or other applicable law,
745 the selected offer and a written explanation of the basis upon
746 which the preliminary selection was made shall be made available
747 for inspection and copying in accordance with s. 119.07 and, to
748 the extent feasible, on the Internet at least 7 calendar days
749 before the hearing scheduled under this section.
- 750 (d) At the hearing, the department shall allow the public
751 to be heard on the preliminary selection.
- 752 (14) (a) After the hearing required under subsection (13),
753 the department shall determine if a management agreement should
754 be entered into with the offeror that submitted the selected
755 offer. If the department makes a favorable determination, the
756 department shall submit the determination to the Governor.

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757 (b) After review of the department's determination, the
758 Governor may accept or reject the department's determination. If
759 the Governor accepts the department's determination, the
760 Governor shall designate the offeror who submitted the selected
761 offer as the manager for the lottery.

762 (c) After the Governor designates the manager, the
763 department may execute a management agreement with the
764 designated manager.

765 (15) The manager may finance its obligations with respect
766 to the lottery and the management agreement in the amounts and
767 upon the terms and conditions determined by the manager.
768 However, any bonds, debt, other securities, or other financing
769 issued for the purposes of this section shall not be considered
770 to constitute a debt of the state or any political subdivision
771 of the state or a pledge of the faith and credit of the state or
772 any political subdivision of the state.

773 (16) An action to contest the validity of a management
774 agreement entered into under this section may not be brought
775 after the 15th day after the designation of the manager under
776 the management agreement as provided in subsection (14).

777 (17) (a) The department must use appropriate experts and
778 professionals needed to conduct a competitive bidding proceeding
779 as required under this section and may use the services of
780 outside professionals to the extent necessary to carry out its
781 obligations under this section.

782 (b) The department may exercise any powers provided under
783 this section in participation or cooperation with any other
784 governmental entity and enter into any contracts to facilitate

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785 that participation or cooperation without compliance with any
786 other statute.

787 (c) The department may make and enter into all contracts
788 and agreements necessary or incidental to the performance of the
789 department's duties under this section and the execution of the
790 department's powers under this section. These contracts or
791 agreements are not subject to any approval by any other
792 governmental entity and may be for any term of years within the
793 time period of the management agreement under subsection (4) and
794 contain any terms that are considered reasonable by the
795 department.

796 (d) The department may make and enter into all contracts
797 and agreements with a state agency necessary or incidental to
798 the performance of the duties and the execution of the powers
799 granted to the department or the state agency in accordance with
800 this section or the management agreement. These contracts or
801 agreements are not subject to approval by any other governmental
802 entity and may be for any term of years and contain any terms
803 that are considered reasonable by the department or the state
804 agency.

805 (18) (a) The department may not sell the authorization to
806 operate the lottery.

807 (b) Any tangible personal property used exclusively in
808 connection with the lottery that is owned by the department and
809 leased to the manager shall be owned by the department in the
810 name of the state and shall be considered to be public property
811 devoted to an essential public and governmental function.

812 (19) The department may exercise any of its powers under

813 this chapter or any other law as necessary or desirable for the
 814 execution of the department's powers under this section.

815 (20) Neither this section nor any management agreement
 816 entered into under this section prohibits the Legislature from
 817 authorizing forms of gambling that are not in direct competition
 818 with the lottery.

819 Section 11. Section 24.112, Florida Statutes, is amended
 820 to read:

821 24.112 Retailers of lottery tickets.—

822 (1) If the department does not enter into a management
 823 agreement, the department shall adopt ~~promulgate~~ rules
 824 specifying the terms and conditions for contracting with
 825 retailers who will best serve the public interest and promote
 826 the sale of lottery tickets.

827 (2) If the department does not enter into a management
 828 agreement, in the selection of retailers, the department shall
 829 consider factors such as financial responsibility, integrity,
 830 reputation, accessibility of the place of business or activity
 831 to the public, security of the premises, the sufficiency of
 832 existing retailers to serve the public convenience, and the
 833 projected volume of the sales for the lottery game involved. In
 834 the consideration of these factors, the department may require
 835 the information it deems necessary of any person applying for
 836 authority to act as a retailer. However, the department may not
 837 establish a limitation upon the number of retailers and shall
 838 make every effort to allow small business participation as
 839 retailers. It is the intent of the Legislature that retailer
 840 selections be based on business considerations and the public

841 convenience and that retailers be selected without regard to
 842 political affiliation.

843 (3) If the department does not enter into a management
 844 agreement, the department may ~~shall~~ not contract with any person
 845 as a retailer who:

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

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

850 (c) Has been convicted of, or entered a plea of guilty or
 851 nolo contendere to, a felony committed in the preceding 10
 852 years, regardless of adjudication, unless the department
 853 determines that:

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

856 2. Subsequent to such conviction or entry of plea the
 857 person has engaged in the kind of law-abiding commerce and good
 858 citizenship that would reflect well upon the integrity of the
 859 lottery; or

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

864 (4) If the department does not enter into a management
 865 agreement, the department shall issue a certificate of authority
 866 to each person with whom it contracts as a retailer for purposes
 867 of display pursuant to subsection (6). The issuance of the
 868 certificate does ~~shall~~ not confer upon the retailer any right

869 | apart from that specifically granted in the contract. The
 870 | authority to act as a retailer is ~~shall~~ not ~~be~~ assignable or
 871 | transferable.

872 | (5) Any contract executed by the department under ~~pursuant~~
 873 | ~~to~~ this section shall specify the reasons for any suspension or
 874 | termination of the contract by the department, including, but
 875 | not limited to:

876 | (a) Commission of a violation of this chapter ~~act~~ or rule
 877 | adopted pursuant thereto.

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

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

881 | (d) Insufficient sale of tickets.

882 | (e) Conduct prejudicial to public confidence in the
 883 | lottery.

884 | (f) Any material change in any matter considered by the
 885 | department in executing the contract with the retailer.

886 | (6) Every retailer shall post and keep conspicuously
 887 | displayed in a location on the premises accessible to the public
 888 | its certificate of authority and, with respect to each game, a
 889 | statement supplied by the department or the manager of the
 890 | estimated odds of winning some prize for the game.

891 | (7) No contract with a retailer shall authorize the sale
 892 | of lottery tickets at more than one location, and a retailer may
 893 | sell lottery tickets only at the location stated on the
 894 | certificate of authority.

895 | (8) If the department does not enter into a management
 896 | agreement, with respect to any retailer whose rental payments

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897 | for premises are contractually computed, in whole or in part, on
898 | the basis of a percentage of retail sales, and where such
899 | computation of retail sales is not explicitly defined to include
900 | sales of tickets in a state-operated lottery, the compensation
901 | received by the retailer from the department shall be deemed to
902 | be the amount of the retail sale for the purposes of such
903 | contractual compensation.

904 | (9) If the department does not enter into a management
905 | agreement:

906 | (a) The department may require every retailer to post an
907 | appropriate bond as determined by the department, using an
908 | insurance company acceptable to the department, in an amount not
909 | to exceed twice the average lottery ticket sales of the retailer
910 | for the period within which the retailer is required to remit
911 | lottery funds to the department. For the first 90 days of sales
912 | of a new retailer, the amount of the bond may not exceed twice
913 | the average estimated lottery ticket sales for the period within
914 | which the retailer is required to remit lottery funds to the
915 | department. This paragraph does ~~shall~~ not apply to lottery
916 | tickets that ~~which~~ are prepaid by the retailer.

917 | (b) In lieu of such bond, the department may purchase
918 | blanket bonds covering all or selected retailers or may allow a
919 | retailer to deposit and maintain with the Chief Financial
920 | Officer securities that are interest bearing or accruing and
921 | that, with the exception of those specified in subparagraphs 1.
922 | and 2., are rated in one of the four highest classifications by
923 | an established nationally recognized investment rating service.
924 | Securities eligible under this paragraph shall be limited to:

925 1. Certificates of deposit issued by solvent banks or
 926 savings associations organized and existing under the laws of
 927 this state or under the laws of the United States and having
 928 their principal place of business in this state.

929 2. United States bonds, notes, and bills for which the
 930 full faith and credit of the government of the United States is
 931 pledged for the payment of principal and interest.

932 3. General obligation bonds and notes of any political
 933 subdivision of the state.

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

936

937 Such securities shall be held in trust and shall have at all
 938 times a market value at least equal to an amount required by the
 939 department.

940 (10) Every contract entered into by the department
 941 pursuant to this section shall contain a provision for payment
 942 of liquidated damages to the department for any breach of
 943 contract by the retailer.

944 (11) The department shall establish procedures by which
 945 each retailer shall account for all tickets sold by the retailer
 946 and account for all funds received by the retailer from such
 947 sales. The contract with each retailer shall include provisions
 948 relating to the sale of tickets, payment of moneys to the
 949 department, reports, service charges, and interest and
 950 penalties, if necessary, as the department shall deem
 951 appropriate.

952 (12) No payment by a retailer to the department for

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953 tickets shall be in cash. All such payments shall be in the form
954 of a check, bank draft, electronic fund transfer, or other
955 financial instrument authorized by the secretary.

956 (13) Each retailer shall provide accessibility for
957 disabled persons on habitable grade levels. This subsection does
958 not apply to a retail location that ~~which~~ has an entrance door
959 threshold more than 12 inches above ground level. As used herein
960 and for purposes of this subsection only, the term
961 "accessibility for disabled persons on habitable grade levels"
962 means that retailers shall provide ramps, platforms, aisles and
963 pathway widths, turnaround areas, and parking spaces to the
964 extent these are required for the retailer's premises by the
965 particular jurisdiction where the retailer is located.
966 Accessibility shall be required to only one point of sale of
967 lottery tickets for each lottery retailer location. The
968 requirements of this subsection shall be deemed to have been met
969 if, in lieu of the foregoing, disabled persons can purchase
970 tickets from the retail location by means of a drive-up window,
971 provided the hours of access at the drive-up window are not less
972 than those provided at any other entrance at that lottery
973 retailer location. Inspections for compliance with this
974 subsection shall be performed by those enforcement authorities
975 responsible for enforcement pursuant to s. 553.80 in accordance
976 with procedures established by those authorities. Those
977 enforcement authorities shall provide to the Department of the
978 Lottery a certification of noncompliance for any lottery
979 retailer not meeting such requirements.

980 (14) The secretary may, after filing with the Department

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981 of State his or her manual signature certified by the secretary
 982 under oath, execute or cause to be executed contracts between
 983 the department and retailers by means of engraving, imprinting,
 984 stamping, or other facsimile signature.

985 Section 12. Section 24.113, Florida Statutes, is amended
 986 to read:

987 24.113 Minority participation.—

988 (1) It is the intent of the Legislature that the
 989 department or the manager, if any, encourage participation by
 990 minority business enterprises as defined in s. 288.703.
 991 Accordingly, 15 percent of the retailers shall be minority
 992 business enterprises as defined in s. 288.703(2); however, no
 993 more than 35 percent of such retailers shall be owned by the
 994 same type of minority person, as defined in s. 288.703(3). The
 995 department or the manager, if any, is encouraged to meet the
 996 minority business enterprise procurement goals set forth in s.
 997 287.09451 in the procurement of commodities, contractual
 998 services, construction, and architectural and engineering
 999 services. This section shall not preclude or prohibit a minority
 1000 person from competing for any other retailing or vending
 1001 agreement awarded by the department or the manager.

1002 (2) The department or the manager, if any, shall ~~is~~
 1003 ~~directed to~~ undertake training programs and other educational
 1004 activities to enable minority persons to compete for such
 1005 contracts on an equal basis.

1006 Section 13. Section 24.114, Florida Statutes, is amended
 1007 to read:

1008 24.114 Bank deposits and control of lottery transactions.—

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1009 (1) All moneys received by each retailer from the
1010 operation of the state lottery, including, but not limited to,
1011 all ticket sales, interest, gifts, and donations, less the
1012 amount retained as compensation for the sale of the tickets and
1013 the amount paid out as prizes, shall be remitted to the
1014 department or deposited in a qualified public depository, as
1015 defined in s. 280.02, as directed by the department. The
1016 department shall have the responsibility for all administrative
1017 functions related to the receipt of funds. The department may
1018 also require each retailer to file with the department reports
1019 of the retailer's receipts and transactions in the sale of
1020 lottery tickets in such form and containing such information as
1021 the department may require. The department may require any
1022 person, including a qualified public depository, to perform any
1023 function, activity, or service in connection with the operation
1024 of the lottery as it may deem advisable pursuant to this chapter
1025 ~~act~~ and rules of the department, and such functions, activities,
1026 or services shall constitute lawful functions, activities, and
1027 services of such person.

1028 (2) The department may require retailers to establish
1029 separate electronic funds transfer accounts for the purpose of
1030 receiving moneys from ticket sales, making payments to the
1031 department, and receiving payments from the department.

1032 (3) Each retailer is liable to the department for any and
1033 all tickets accepted or generated by any employee or
1034 representative of that retailer, and the tickets shall be deemed
1035 to have been purchased by the retailer unless returned to the
1036 department within the time and in the manner prescribed by the

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1037 department. All moneys received by retailers from the sale of
 1038 lottery tickets, less the amount retained as compensation for
 1039 the sale of tickets and the amount paid out as prizes by the
 1040 retailer, shall be held in trust prior to delivery to the
 1041 department or electronic transfer to the Operating Trust Fund.

1042 Section 14. Section 24.115, Florida Statutes, is amended
 1043 to read:

1044 24.115 Payment of prizes.—

1045 (1) The department shall promulgate rules to establish a
 1046 system of verifying the validity of tickets claimed to win
 1047 prizes and to effect payment of such prizes; however, the
 1048 following shall apply whether the department does or does not
 1049 enter into a management agreement:

1050 (a) The right of any person to a prize, other than a prize
 1051 that is payable in installments over time, is not assignable.
 1052 However, any prize, to the extent that it has not been assigned
 1053 or encumbered pursuant to s. 24.1153, may be paid to the estate
 1054 of a deceased prize winner or to a person designated pursuant to
 1055 an appropriate court order. A prize that is payable in
 1056 installments over time is assignable, but only pursuant to an
 1057 appropriate court order as provided in s. 24.1153.

1058 (b) No prize shall be paid to any person under the age of
 1059 18 years unless the winning ticket was lawfully purchased and
 1060 made a gift to the minor. In such case, the department or the
 1061 manager, if a management agreement is in force, shall direct
 1062 payment to an adult member of the minor's family or the legal
 1063 guardian of the minor as custodian for the minor. The person
 1064 named as custodian shall have the same powers and duties as

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1065 prescribed for a custodian pursuant to chapter 710, the Florida
1066 Uniform Transfers to Minors Act.

1067 (c) No prize may be paid arising from claimed tickets that
1068 are stolen, counterfeit, altered, fraudulent, unissued, produced
1069 or issued in error, unreadable, not received or not recorded by
1070 the department or the manager, if a management agreement is in
1071 force, by applicable deadlines, lacking in captions that confirm
1072 and agree with the lottery play symbols as appropriate to the
1073 lottery game involved, or not in compliance with such additional
1074 specific rules and public or confidential validation and
1075 security tests of the department or the manager, if a management
1076 agreement is in force, appropriate to the particular lottery
1077 game involved.

1078 (d) No particular prize in any lottery game may be paid
1079 more than once, and in the event of a binding determination that
1080 more than one claimant is entitled to a particular prize, the
1081 sole remedy of such claimants is the award to each of them of an
1082 equal share in the prize.

1083 (e) For the convenience of the public, retailers may be
1084 authorized to pay winners amounts less than \$600 after
1085 performing validation procedures on their premises appropriate
1086 to the lottery game involved.

1087 (f) Holders of tickets shall have the right to claim
1088 prizes for 180 days after the drawing or the end of the lottery
1089 game or play in which the prize was won; except that with
1090 respect to any game in which the player may determine instantly
1091 if he or she has won or lost, such right shall exist for 60 days
1092 after the end of the lottery game. If a valid claim is not made

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1093 | for a prize within the applicable period, the prize shall
 1094 | constitute an unclaimed prize for purposes of subsection (2).

1095 | (g) No prize shall be paid upon a ticket purchased or sold
 1096 | in violation of this chapter ~~act~~ or to any person who is
 1097 | prohibited from purchasing a lottery ticket pursuant to this
 1098 | chapter ~~act~~. Any such prize shall constitute an unclaimed prize
 1099 | for purposes of subsection (2).

1100 | (2) (a) Eighty percent of all unclaimed prize money shall
 1101 | be deposited in the Educational Enhancement Trust Fund
 1102 | consistent with the provisions of s. 24.121(2). Subject to
 1103 | appropriations provided in the General Appropriations Act, these
 1104 | funds may be used to match private contributions received under
 1105 | the postsecondary matching grant programs established in ss.
 1106 | 1011.32, 1011.85, 1011.94, and 1013.79.

1107 | (b) The remaining 20 percent of unclaimed prize money
 1108 | shall be added to the pool from which future prizes are to be
 1109 | awarded or used for special prize promotions.

1110 | (3) The department or the manager, if a management
 1111 | agreement is in force, shall be discharged of all liability upon
 1112 | payment of a prize.

1113 | (4) It is the responsibility of the appropriate state
 1114 | agency and of the judicial branch to identify to the department
 1115 | or the manager, if a management agreement is in force, in the
 1116 | form and format prescribed by the department or the manager,
 1117 | persons owing an outstanding debt to any state agency or owing
 1118 | child support collected through a court, including spousal
 1119 | support or alimony for the spouse or former spouse of the
 1120 | obligor if the child support obligation is being enforced by the

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1121 Department of Revenue. Prior to the payment of a prize of \$600
 1122 or more to any claimant having such an outstanding obligation,
 1123 the department or the manager shall transmit the amount of the
 1124 debt to the agency claiming the debt and shall authorize payment
 1125 of the balance to the prize winner after deduction of the debt.
 1126 If a prize winner owes multiple debts subject to offset under
 1127 this subsection and the prize is insufficient to cover all such
 1128 debts, the amount of the prize shall be transmitted first to the
 1129 agency claiming that past due child support is owed. If a
 1130 balance of lottery prize remains after payment of past due child
 1131 support, the remaining lottery prize amount shall be transmitted
 1132 to other agencies claiming debts owed to the state, pro rata,
 1133 based upon the ratio of the individual debt to the remaining
 1134 debt owed to the state.

1135 Section 15. Section 24.1153, Florida Statutes, is amended
 1136 to read:

1137 24.1153 Assignment of prizes payable in installments.—

1138 (1) The right of any person to receive payments under a
 1139 prize that is paid in installments over time by the department
 1140 or the manager, if a management agreement is in force, may be
 1141 voluntarily assigned, in whole or in part, if the assignment is
 1142 made to a person or entity designated pursuant to an order of a
 1143 court of competent jurisdiction located in the judicial district
 1144 where the assigning prize winner resides or where the
 1145 headquarters of the department is located or where in the state
 1146 the headquarters of the manager is located, if a management
 1147 agreement is in force. A court may issue an order approving a
 1148 voluntary assignment and directing the department or the manager

1149 | to make prize payments in whole or in part to the designated
 1150 | assignee, if the court finds that all of the following
 1151 | conditions have been met:

1152 | (a) The assignment is in writing, is executed by the
 1153 | assignor, and is, by its terms, subject to the laws of this
 1154 | state.

1155 | (b) The purchase price being paid for the payments being
 1156 | assigned represents a present value of the payments being
 1157 | assigned, discounted at an annual rate that does not exceed the
 1158 | state's usury limit for loans.

1159 | (c) The assignor provides a sworn affidavit attesting that
 1160 | he or she:

1161 | 1. Is of sound mind, is in full command of his or her
 1162 | faculties, and is not acting under duress;

1163 | 2. Has been advised regarding the assignment by his or her
 1164 | own independent legal counsel, who is unrelated to and is not
 1165 | being compensated by the assignee or any of the assignee's
 1166 | affiliates, and has received independent financial or tax advice
 1167 | concerning the effects of the assignment from a lawyer or other
 1168 | professional who is unrelated to and is not being compensated by
 1169 | the assignee or any of the assignee's affiliates;

1170 | 3. Understands that he or she will not receive the prize
 1171 | payments or portions thereof for the years assigned;

1172 | 4. Understands and agrees that with regard to the assigned
 1173 | payments the department or the manager and its officials and
 1174 | employees will have no further liability or responsibility to
 1175 | make the assigned payments to him or her;

1176 | 5. Has been provided with a one-page written disclosure

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1177 statement setting forth, in bold type of not less than 14
1178 points, the payments being assigned, by amounts and payment
1179 dates; the purchase price being paid; the rate of discount to
1180 present value, assuming daily compounding and funding on the
1181 contract date; and the amount, if any, of any origination or
1182 closing fees that will be charged to him or her; and

1183 6. Was advised in writing, at the time he or she signed
1184 the assignment contract, that he or she had the right to cancel
1185 the contract, without any further obligation, within 3 business
1186 days following the date on which the contract was signed.

1187 (d) Written notice of the proposed assignment and any
1188 court hearing concerning the proposed assignment is provided to
1189 the department's or the manager's counsel at least 10 days prior
1190 to any court hearing. The department or the manager is not
1191 required to appear in or be named as a party to any such action
1192 seeking judicial confirmation of an assignment under this
1193 section, but may intervene as of right in any such proceeding.

1194 (2) A certified copy of a court order approving a
1195 voluntary assignment must be provided to the department or the
1196 manager no later than 14 days before the date on which the
1197 payment is to be made.

1198 (3) In accordance with the provisions of s. 24.115(4), a
1199 voluntary assignment may not include or cover payments or
1200 portions of payments that are subject to offset on account of a
1201 defaulted or delinquent child support obligation or on account
1202 of a debt owed to a state agency. Each court order issued under
1203 subsection (1) shall provide that any delinquent child support
1204 obligations of the assigning prize winner and any debts owed to

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1205 a state agency by the assigning prize winner, as of the date of
 1206 the court order, shall be offset by the department or the
 1207 manager first against remaining payments or portions thereof due
 1208 the prize winner and then against payments due the assignee.

1209 (4) The department or the manager, and its respective
 1210 officials and employees, shall be discharged of all liability
 1211 upon payment of an assigned prize under this section.

1212 (5) The department or the manager may establish a
 1213 reasonable fee to defray any administrative expenses associated
 1214 with assignments made under this section, including the cost to
 1215 the department or the manager of any processing fee that may be
 1216 imposed by a private annuity provider. The fee amount shall
 1217 reflect the direct and indirect costs associated with processing
 1218 such assignments.

1219 (6) If at any time the Internal Revenue Service or a court
 1220 of competent jurisdiction issues a determination letter, revenue
 1221 ruling, other public ruling of the Internal Revenue Service, or
 1222 published decision to any state lottery or prize winner of any
 1223 state lottery declaring that the voluntary assignment of prizes
 1224 will affect the federal income tax treatment of prize winners
 1225 who do not assign their prizes, the secretary of the department
 1226 shall immediately file a copy of that letter, ruling, or
 1227 published decision with the Secretary of State and the Office of
 1228 the State Courts Administrator. A court may not issue an order
 1229 authorizing a voluntary assignment under this section after the
 1230 date any such ruling, letter, or published decision is filed.

1231 Section 16. Section 24.117, Florida Statutes, is amended
 1232 to read:

1233 24.117 Unlawful sale of lottery tickets; penalty.—Any
 1234 person who knowingly:

1235 (1) Sells a state lottery ticket when not authorized by
 1236 the department or this chapter ~~act~~ to engage in such sale;

1237 (2) Sells a state lottery ticket to a minor; or

1238 (3) Sells a state lottery ticket at any price other than
 1239 that established by the department;

1240

1241 commits ~~is guilty of~~ a misdemeanor of the first degree,
 1242 punishable as provided in s. 775.082 or s. 775.083.

1243 Section 17. Subsections (4) and (5) of section 24.118,
 1244 Florida Statutes, are amended to read:

1245 24.118 Other prohibited acts; penalties.—

1246 (4) BREACH OF CONFIDENTIALITY.—Any person who, with intent
 1247 to defraud or with intent to provide a financial or other
 1248 advantage to himself, herself, or another, knowingly and
 1249 willfully discloses any information relating to the lottery
 1250 designated as confidential and exempt from the provisions of s.
 1251 119.07(1) pursuant to this chapter commits ~~act is guilty of~~ a
 1252 felony of the first degree, punishable as provided in s.
 1253 775.082, s. 775.083, or s. 775.084.

1254 (5) UNLAWFUL REPRESENTATION.—

1255 (a) Any person who uses point-of-sale materials issued by
 1256 the department or the manager or otherwise holds himself or
 1257 herself out as a retailer without being authorized by the
 1258 department or the manager to act as a retailer commits ~~is guilty~~
 1259 ~~of~~ a misdemeanor of the first degree, punishable as provided in
 1260 s. 775.082 or s. 775.083.

1261 (b) Any person who without being authorized by the
 1262 department or the manager in writing uses the term "Florida
 1263 Lottery," "State Lottery," "Florida State Lottery," or any
 1264 similar term in the title or name of any charitable or
 1265 commercial enterprise, product, or service commits ~~is guilty of~~
 1266 a misdemeanor of the first degree, punishable as provided in s.
 1267 775.082 or s. 775.083.

1268 Section 18. Subsections (1) and (2) of section 24.120,
 1269 Florida Statutes, are amended to read:

1270 24.120 Financial matters; Operating Trust Fund;
 1271 interagency cooperation.—

1272 (1) There is hereby created in the State Treasury an
 1273 Operating Trust Fund to be administered in accordance with
 1274 chapters 215 and 216 by the department. All money received by
 1275 the department which remains after payment of prizes and initial
 1276 compensation paid to retailers shall be deposited into the
 1277 Operating Trust Fund. All moneys in the trust fund are
 1278 appropriated to the department for the purposes specified in
 1279 this chapter ~~act~~.

1280 (2) Moneys available for the payment of prizes awarded by
 1281 the department, on a deferred basis shall be invested by the
 1282 State Board of Administration in accordance with a trust
 1283 agreement approved by the secretary and entered into between the
 1284 department and the State Board of Administration in accordance
 1285 with ss. 215.44-215.53. The investments authorized by this
 1286 subsection shall be done in a manner designed to preserve
 1287 capital and to ensure the integrity of the lottery disbursement
 1288 system by eliminating the risk of payment of funds when due and

1289 to produce equal annual sums of money over the required term of
 1290 the investments.

1291 Section 19. Subsections (1), (2), and (3) of section
 1292 24.121, Florida Statutes, are amended to read:

1293 24.121 Allocation of revenues and expenditure of funds for
 1294 public education.—

1295 (1) Variable percentages of the gross revenue from the
 1296 sale of online and instant lottery tickets shall be returned to
 1297 the public in the form of prizes paid by the department or
 1298 retailers as authorized by this chapter ~~act~~. The variable
 1299 percentages of gross revenue from the sale of online and instant
 1300 lottery tickets returned to the public in the form of prizes
 1301 shall be established by the department in a manner designed to
 1302 maximize the amount of funds deposited under subsection (2).

1303 (2) Each fiscal year, variable percentages of the gross
 1304 revenue from the sale of online and instant lottery tickets as
 1305 determined by the department consistent with subsection (1), and
 1306 other earned revenue up to the amount of the state annuity
 1307 requirement, excluding application processing fees, shall be
 1308 deposited in the Educational Enhancement Trust Fund, which is
 1309 hereby created in the State Treasury to be administered by the
 1310 Department of Education. If the department enters into a
 1311 management agreement, the proceeds received by the department
 1312 from the management agreement under s. 24.1115(7) (b) and (c)
 1313 shall be deposited in the Educational Enhancement Trust Fund,
 1314 with, at minimum, the greater of \$400 million or one-third of
 1315 the funds deposited into the trust fund to be allocated to the
 1316 Florida Bright Futures Scholarship Program. The Department of

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1317 the Lottery shall transfer moneys to the Educational Enhancement
 1318 Trust Fund at least once each quarter. Funds in the Educational
 1319 Enhancement Trust Fund shall be used to the benefit of public
 1320 education in accordance with the provisions of this chapter ~~aet.~~
 1321 Notwithstanding any other provision of law, lottery revenues
 1322 transferred to the Educational Enhancement Trust Fund shall be
 1323 reserved as needed and used to meet the requirements of the
 1324 documents authorizing the bonds issued by the state pursuant to
 1325 s. 1013.68, s. 1013.70, or s. 1013.737 or distributed to school
 1326 districts for the Classrooms First Program as provided in s.
 1327 1013.68. Such lottery revenues are hereby pledged to the payment
 1328 of debt service on bonds issued by the state pursuant to s.
 1329 1013.68, s. 1013.70, or s. 1013.737. Debt service payable on
 1330 bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or
 1331 s. 1013.737 shall be payable from, and is secured by a first
 1332 lien on, the first lottery revenues transferred to the
 1333 Educational Enhancement Trust Fund in each fiscal year. Amounts
 1334 distributable to school districts that request the issuance of
 1335 bonds pursuant to s. 1013.68(3) are hereby pledged to such bonds
 1336 pursuant to s. 11(d), Art. VII of the State Constitution.

1337 (3) The funds remaining in the Operating Trust Fund after
 1338 transfers to the Educational Enhancement Trust Fund shall be
 1339 used for the payment of administrative expenses of the
 1340 department. These expenses shall include all costs incurred in
 1341 the department's direct operation and administration of the
 1342 lottery or the management agreement and all costs resulting from
 1343 any contracts entered into for the purchase or lease of goods or
 1344 services required by the lottery, including, but not limited to:

1345 (a) The compensation paid to retailers;
 1346 (b) The costs of supplies, materials, tickets, independent
 1347 audit services, independent studies, data transmission,
 1348 advertising, promotion, incentives, public relations,
 1349 communications, security, bonding for retailers, printing,
 1350 distribution of tickets, and reimbursing other governmental
 1351 entities for services provided to the lottery; and

1352 (c) The costs of any other goods and services necessary
 1353 for effectuating the purposes of this chapter act.

1354 Section 20. Section 24.122, Florida Statutes, is amended
 1355 to read:

1356 24.122 Exemption from taxation; state preemption;
 1357 inapplicability of other laws.—

1358 (1) This chapter act shall not be construed to authorize
 1359 any lottery except the lottery operated by the department or the
 1360 manager under pursuant to this chapter act.

1361 (2) No state or local tax shall be imposed upon any prize
 1362 paid or payable under this chapter act or upon the sale of any
 1363 lottery ticket pursuant to this chapter act.

1364 (3) All matters relating to the operation of the state
 1365 lottery are preempted to the state, and no county, municipality,
 1366 or other political subdivision of the state shall enact any
 1367 ordinance relating to the operation of the lottery authorized by
 1368 this chapter act. However, this subsection shall not prohibit a
 1369 political subdivision of the state from requiring a retailer to
 1370 obtain an occupational license for any business unrelated to the
 1371 sale of lottery tickets.

1372 (4) Any state or local law providing any penalty,

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1373 disability, restriction, or prohibition for the possession,
 1374 manufacture, transportation, distribution, advertising, or sale
 1375 of any lottery ticket, including chapter 849, shall not apply to
 1376 the tickets of the state lottery operated pursuant to this
 1377 chapter ~~act~~; nor shall any such law apply to the possession of a
 1378 ticket issued by any other government-operated lottery. In
 1379 addition, activities of the department under this chapter ~~act~~
 1380 are exempt from the provisions of:

- 1381 (a) Chapter 616, relating to public fairs and expositions.
- 1382 (b) Chapter 946, relating to correctional work programs.
- 1383 (c) Chapter 282, relating to communications and data
 1384 processing.

1385 (d) Section 110.131, relating to other personal services.

1386 Section 21. Section 24.123, Florida Statutes, is amended
 1387 to read:

1388 24.123 Annual audit of financial records and reports.—

1389 (1) The Legislative Auditing Committee shall contract with
 1390 a certified public accountant licensed pursuant to chapter 473
 1391 for an annual financial audit of the department. The certified
 1392 public accountant shall have no financial interest in any vendor
 1393 or manager with whom the department is under contract. The
 1394 certified public accountant shall present an audit report no
 1395 later than 7 months after the end of the fiscal year and shall
 1396 make recommendations to enhance the earning capability of the
 1397 state lottery or the management agreement and to improve the
 1398 efficiency of department operations. The certified public
 1399 accountant shall also perform a study and evaluation of internal
 1400 accounting controls and shall express an opinion on those

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1401 controls in effect during the audit period. The cost of the
 1402 annual financial audit shall be paid by the department.

1403 (2) The Auditor General may at any time conduct an audit
 1404 of any phase of the operations of the state lottery or the
 1405 management agreement and shall receive a copy of the yearly
 1406 independent financial audit and any security report prepared
 1407 pursuant to s. 24.108.

1408 (3) A copy of any audit performed pursuant to this section
 1409 shall be submitted to the secretary, the Governor, the President
 1410 of the Senate, the Speaker of the House of Representatives, and
 1411 members of the Legislative Auditing Committee.

1412 Section 22. Subsection (1) of section 24.124, Florida
 1413 Statutes, is amended to read:

1414 24.124 Responsibility for ticket accuracy; department,
 1415 retailer, and vendor liability.—

1416 (1) Purchasers of online games tickets shall be
 1417 responsible for verifying the accuracy of their tickets,
 1418 including the number or numbers printed on the tickets. In the
 1419 event of an error, the ticket may be canceled and a replacement
 1420 ticket issued pursuant to rules adopted ~~promulgated~~ by the
 1421 department ~~of the Lottery~~.

1422 Section 23. This act shall take effect January 1, 2012.