

By Senator Smith

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

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

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59 of prizes, assignment of prizes payable in
60 installments, penalties for unlawful sale of lottery
61 tickets, breach of confidentiality, and unlawful
62 representation, and financial matters to conform to
63 the possibility of contracting with a manager;
64 amending s. 24.121, F.S.; revising provisions relating
65 to allocation of revenues and expenditure of funds for
66 public education to conform to the possibility of
67 contracting with a manager; providing for a minimum
68 allocation of proceeds received under a management
69 agreement to the Florida Bright Futures Scholarship
70 Program; amending ss. 24.122, 24.123, and 24.124,
71 F.S.; revising provisions relating to an exemption
72 from taxation, state preemption, inapplicability of
73 other laws, annual audit of financial records and
74 reports, responsibility for ticket accuracy, and
75 liability to conform to the possibility of contracting
76 with a manager; providing an effective date.

77
78 Be It Enacted by the Legislature of the State of Florida:

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

82 20.317 Department of the Lottery.—There is created a
83 Department of the Lottery.

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

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88 state lottery.

89 Section 2. Section 24.101, Florida Statutes, is amended to
90 read:

91 24.101 Short title.—This chapter ~~act~~ may be cited as the
92 “Florida Public Education Lottery Act.”

93 Section 3. Section 24.102, Florida Statutes, is amended to
94 read:

95 24.102 Purpose and intent.—

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

101 (2) The intent of the Legislature is:

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

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

116 (c) That the lottery games be operated by a self-

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117 supporting, revenue-producing department or with the assistance
118 of an entrepreneurial business enterprise under a management
119 agreement with government oversight.

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

126 Section 4. Section 24.103, Florida Statutes, is renumbered
127 and amended to read:

128 24.103 Definitions.—As used in this chapter act:

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

130 (7)-(2) "Secretary" means the secretary of the department.

131 (3) "Management agreement" means that agreement entered
132 into pursuant to which the state may contract with a manager to
133 provide management services to the lottery, although under such
134 an agreement the department shall continue to manage and operate
135 the lottery, and further pursuant to which the manager may
136 receive a certain share of lottery ticket sales or related
137 proceeds in consideration of the payment of a fee or fees to the
138 state.

139 (4) "Manager" means an entity that provides management
140 services to the lottery on behalf of the department under a
141 management agreement.

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

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146 (2)~~(4)~~ "Major procurement" means a procurement for a
147 contract for the printing of tickets for use in any lottery
148 game, consultation services for the startup of the lottery, any
149 goods or services involving the official recording for lottery
150 game play purposes of a player's selections in any lottery game
151 involving player selections, any goods or services involving the
152 receiving of a player's selection directly from a player in any
153 lottery game involving player selections, any goods or services
154 involving the drawing, determination, or generation of winners
155 in any lottery game, the security report services provided for
156 in this chapter ~~act~~, or any goods and services relating to
157 marketing and promotion that ~~which~~ exceed a value of \$25,000.

158 (6)~~(5)~~ "Retailer" means a person who sells lottery tickets
159 on behalf of the department or the manager pursuant to a
160 contract.

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

165 Section 5. Section 24.104, Florida Statutes, is amended to
166 read:

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

172 Section 6. Subsections (2), (4), (6), (7), (9), (11), (15),
173 (17), (18), and (19) of section 24.105, Florida Statutes, are
174 amended to read:

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175 24.105 Powers and duties of department.—The department
176 shall:

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

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

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

198 (7) Make a continuing study of the lottery to ascertain any
199 defects of this chapter ~~act~~ or rules adopted thereunder which
200 could result in abuses in the administration of the lottery;
201 make a continuing study of the operation and the administration
202 of similar laws in other states and of federal laws that ~~which~~
203 may affect the lottery; and, if the department has not entered

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204 into a management agreement, make a continuing study of the
205 reaction of the public to existing and potential features of the
206 lottery.

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

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

210 2. Regardless of whether the department has entered into a
211 management agreement, ~~except that~~:

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

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

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

222 d.4. The only player-activated machine that ~~which~~ may be
223 utilized is a machine that ~~which~~ dispenses instant lottery game
224 tickets following the insertion of a coin or currency by a
225 ticket purchaser. To be authorized a machine must ~~+~~ be under the
226 supervision and within the direct line of sight of the lottery
227 retailer to ensure that the machine is monitored and only
228 operated by persons at least 18 years of age and ~~+~~ be capable of
229 being electronically deactivated by the retailer to prohibit use
230 by persons less than 18 years of age through the use of a
231 lockout device that maintains the machine's deactivation for a
232 period of no less than 5 minutes unless the machine uses a

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233 method of verifying the age of an operator that the department
234 certifies is equivalent or superior to line-of-sight monitoring
235 and lockout by the retailer. Such a machine must also;~~and~~ be
236 designed to prevent its use or conversion for use in any manner
237 other than the dispensing of instant lottery tickets. Authorized
238 machines may dispense change to players purchasing tickets but
239 may not be utilized for paying the holders of winning tickets of
240 any kind. At least one clerk must be on duty at the lottery
241 retailer while the machine is in operation. However, at least
242 two clerks must be on duty at any lottery location that ~~which~~
243 has violated s. 24.1055.

244 (b) The sales price of tickets.

245 (c) The number and sizes of prizes.

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

253 (e) The manner of payment of prizes to holders of winning
254 tickets.

255 (f) The frequency of drawings or selections of winning
256 tickets.

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

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

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

261 (j) Such other matters necessary or desirable for the

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262 efficient or economical operation of the lottery or for the
263 convenience of the public.

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

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

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

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

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

289 (a) No person shall be employed by the department who has
290 been convicted of, or entered a plea of guilty or nolo

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291 contendere to, a felony committed in the preceding 10 years,
292 regardless of adjudication, unless the department determines
293 that:

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

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

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

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

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320 (d) The department shall establish and maintain a personnel
321 program for its employees, including a personnel classification
322 and pay plan which may provide any or all of the benefits
323 provided in the Senior Management Service or Selected Exempt
324 Service. Each officer or employee of the department shall be a
325 member of the Florida Retirement System. The retirement class of
326 each officer or employee shall be the same as other persons
327 performing comparable functions for other agencies. Employees of
328 the department shall serve at the pleasure of the secretary and
329 shall be subject to suspension, dismissal, reduction in pay,
330 demotion, transfer, or other personnel action at the discretion
331 of the secretary. Such personnel actions are exempt from the
332 provisions of chapter 120. All employees of the department are
333 exempt from the Career Service System provided in chapter 110
334 and, notwithstanding the provisions of s. 110.205(5), are not
335 included in either the Senior Management Service or the Selected
336 Exempt Service. However, all employees of the department are
337 subject to all standards of conduct adopted by rule for career
338 service and senior management employees pursuant to chapter 110.
339 In the event of a conflict between standards of conduct
340 applicable to employees of the Department of the Lottery the
341 more restrictive standard shall apply. Interpretations as to the
342 more restrictive standard may be provided by the Commission on
343 Ethics upon request of an advisory opinion pursuant to s.
344 112.322(3)(a), for purposes of this subsection the opinion shall
345 be considered final action.

346 (e) If the department enters into a management agreement,
347 no employee or contractor of the manager shall receive
348 membership in the Florida Retirement System or any other state

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349 retirement or other state employee benefits on the basis of such
350 employment or contract.

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

353 24.107 Advertising and promotion of lottery games.—

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

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

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

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

367 (2) The director and all investigators employed by the
368 division shall meet the requirements for employment and
369 appointment provided by s. 943.13 and shall satisfy the
370 requirements for certification established by the Criminal
371 Justice Standards and Training Commission pursuant to chapter
372 943. The director and such investigators shall be designated law
373 enforcement officers and shall have the power to investigate and
374 arrest for any alleged violation of this chapter act or any rule
375 adopted pursuant thereto, or any law of this state. Such law
376 enforcement officers may enter upon any premises in which
377 lottery tickets are sold, manufactured, printed, or stored

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378 within the state for the performance of their lawful duties and
379 may take with them any necessary equipment, and such entry shall
380 not constitute a trespass. In any instance in which there is
381 reason to believe that a violation has occurred, such officers
382 have the authority, without warrant, to search and inspect any
383 premises where the violation is alleged to have occurred or is
384 occurring. Any such officer may, consistent with the United
385 States and Florida Constitutions, seize or take possession of
386 any papers, records, tickets, currency, or other items related
387 to any alleged violation.

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

403 (7) (a) ~~After the first full year of sales of tickets to the~~
404 ~~public, or sooner if the secretary deems necessary,~~ The
405 department shall, as it deems appropriate, but at least once
406 every 2 years, engage an independent firm experienced in

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407 security procedures, including, but not limited to, computer
408 security and systems security, to conduct a comprehensive study
409 and evaluation of all aspects of security in the operation of
410 the department.

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

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

433 Section 9. Subsection (1) section 24.111, Florida Statutes,
434 is amended to read:

435 24.111 Vendors; disclosure and contract requirements.-

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

452 Section 10. Section 24.1115, Florida Statutes, is created
453 to read:

454 24.1115 Management agreement.-

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

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

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

467 (b) "Request for qualifications" means all materials and
468 documents prepared by the department to solicit the following
469 from offerors:

470 1. Statements of qualifications.

471 2. Proposals to enter into a management agreement.

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

475 (3) (a) This section contains full and complete authority
476 for a management agreement between the department and a manager
477 and any rules adopted thereunder. No law, procedure, proceeding,
478 publication, notice, consent, approval, order, or act by the
479 department or any other officer, department, agency, or
480 instrumentality of the state or any political subdivision is
481 required for the department to enter into a management agreement
482 under this section.

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

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

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

492 (a) Video lottery games.

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

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

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

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

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

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

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

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

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523 "state annuity." The state annuity received under this
524 subsection shall be deposited as provided in s. 24.121.

525 (c) The management agreement must include the following
526 provisions to ensure that the manager does not earn excess
527 revenue under the management agreement:

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

534 2. Beginning with the second full state fiscal year after
535 the execution of the management agreement, the Office of Policy
536 and Budget in the Executive Office of the Governor shall, for
537 each state fiscal year, calculate the growth, expressed as a
538 percentage, in gross revenue earned by the manager under the
539 management agreement, as compared to the preceding state fiscal
540 year.

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

547 4. If the percentage calculated by the Office of Policy and
548 Budget in the Executive Office of the Governor under
549 subparagraph 2. for a particular state fiscal year exceeds the
550 baseline growth percentage, the manager must make an additional
551 payment to the department. The amount of the additional payment

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552 for the state fiscal year is equal to the gross revenue earned
553 by the manager from lottery tickets in the state fiscal year
554 multiplied by one-half the difference between the percentage
555 calculated by the Office of Policy and Budget in the Executive
556 Office of the Governor under subparagraph 2. for the state
557 fiscal year and the baseline growth percentage. The department
558 shall deposit any additional payment made by the manager under
559 this subparagraph into the excess payments account.

560 5. If the baseline growth percentage exceeds the percentage
561 calculated by the Office of Policy and Budget in the Executive
562 Office of the Governor under subparagraph 2. for a particular
563 state fiscal year, the department must make a payment to the
564 manager from the excess payments account. However, the
565 department is required to make a payment to the manager only if
566 the excess payments account has a positive balance. The amount
567 of the payment by the department for the state fiscal year is
568 equal to the lesser of:

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

575 b. The balance in the excess payments account.

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

578 7. If at the expiration or termination of the management
579 agreement there is money remaining in the excess payments
580 account, it shall be retained by the department and deposited as

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581 provided in s. 24.121.

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

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

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

586 (c) A requirement that so long as the manager complies with
587 all the conditions of the agreement under the oversight of the
588 department, the manager shall perform its duties and obligations
589 with respect to management of the operation of the lottery,
590 including the following:

591 1. The right to use, or ownership of, equipment and other
592 assets used in the operation of the lottery.

593 2. The rights and obligations under contracts with
594 retailers and vendors.

595 3. The implementation of a comprehensive security program
596 by the manager.

597 4. The implementation of a comprehensive system of internal
598 audits.

599 5. The implementation of a program by the manager to curb
600 compulsive gambling by persons playing the lottery.

601 6. A system for determining the following:

602 a. The type of lottery games to be conducted.

603 b. The method of selecting winning tickets.

604 c. The manner of payment of prizes to holders of winning
605 tickets.

606 d. The frequency of drawings of winning tickets.

607 e. The method to be used in selling tickets.

608 f. A system for verifying the validity of tickets claimed
609 to be winning tickets.

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610 g. The basis upon which retailer commissions are
611 established by the manager.

612 h. Minimum payouts.

613 7. A requirement that advertising and promotion must be
614 consistent with the dignity and integrity of the state.

615 (d) Guidelines to ensure that advertising and promoting of
616 the lottery by the manager are not misleading and fairly balance
617 the potential benefits and the potential costs and risks of
618 playing lottery games.

619 (e) A code of ethics for the manager's officers and
620 employees.

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

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

630 (h) Cash reserve requirements.

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

638 (j) Grounds for termination of the management agreement by

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639 the department or the manager.

640 (k) Procedures for amendment of the agreement.

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

644 (m) A provision for the transition of rights and
645 obligations, including any associated equipment or other assets
646 used in the operation of the lottery, from the manager to any
647 successor manager of the lottery, including the department,
648 following the termination of or foreclosure upon the management
649 agreement.

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

655 (o) A provision for minority participation as provided in
656 s. 24.113.

657 (9) (a) The manager shall undergo a complete investigation
658 every 3 years by the department to determine whether the manager
659 remains in compliance with this chapter and the management
660 agreement.

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

663 (10) (a) Before the department enters into a management
664 agreement pursuant to this section, the secretary, as provided
665 in subsection (17), may retain an advisor or advisors to assess
666 the fiscal feasibility of such an agreement and help determine
667 whether to proceed. Such an advisor may also be retained by the

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668 department to represent the department in the request for
669 qualifications process, if one is commenced. If the secretary
670 decides to pursue the possibility of a management agreement, a
671 request for qualifications must be issued as set forth in this
672 section. A request for qualifications for a management agreement
673 may be issued in one or more phases.

674 (b) A request for qualifications must include the
675 following:

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

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

680 3. A statement concerning whether discussions may be
681 conducted with the offerors for the purpose of clarification to
682 ensure full understanding of and responsiveness to the
683 solicitation requirements.

684 4. A statement concerning any other information to be
685 considered in evaluating the offeror's qualifications and
686 proposal.

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

691 (d) As provided in a request for qualifications,
692 discussions may be conducted with the offerors for the purpose
693 of clarification to ensure full understanding of and
694 responsiveness to the solicitation requirements.

695 (11) The contents of proposals are competitive sealed
696 replies in response to an invitation to negotiate for purposes

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697 of s. 119.071(1)(b) and are exempt from s. 119.07(1) and s.
698 24(a), Art. I of the State Constitution until disclosure of the
699 contents that are not otherwise exempt under s. 119.071 or other
700 law is required under s. 119.071(1)(b).

701 (12)(a) The department may negotiate with one or more
702 offerors the department determines are responsible and
703 reasonably capable of managing the lottery and may seek to
704 obtain a final offer from one or more of those offerors.

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

711 1. Expertise, qualifications, competence, skills, and plan
712 to perform obligations under the management agreement in
713 accordance with the management agreement.

714 2. Financial strength, including capitalization and
715 available financial resources.

716 3. Experience in operating government-authorized lotteries
717 and gaming and other similar projects and the quality of any
718 past or present performance on similar or equivalent
719 engagements.

720 4. Integrity, background, and reputation.

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

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

725 1. Make a preliminary selection of an offeror as the

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726 manager for the lottery; or

727 2. Terminate the request for qualifications process.

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

733 1. The date, time, and place of the hearing.

734 2. The subject matter of the hearing.

735 3. A brief description of the management agreement to be
736 awarded.

737 4. The identity of the offeror that has been preliminarily
738 selected as the manager.

739 5. The address and telephone number of the department.

740 6. A statement indicating that, subject to subsection (11),
741 and except for those parts that are confidential under s.
742 119.071 or other applicable law, the selected offer and an
743 explanation of the basis upon which the preliminary selection
744 was made are available for public inspection and copying at the
745 principal office of the department during regular business hours
746 and, to the extent feasible, on the Internet.

747 (c) Subject to subsection (11), and except for those parts
748 that are confidential under s. 119.071 or other applicable law,
749 the selected offer and a written explanation of the basis upon
750 which the preliminary selection was made shall be made available
751 for inspection and copying in accordance with s. 119.07 and, to
752 the extent feasible, on the Internet at least 7 calendar days
753 before the hearing scheduled under this section.

754 (d) At the hearing, the department shall allow the public

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755 to be heard on the preliminary selection.

756 (14) (a) After the hearing required under subsection (13),
757 the department shall determine if a management agreement should
758 be entered into with the offeror that submitted the selected
759 offer. If the department makes a favorable determination, the
760 department shall submit the determination to the Governor.

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

766 (c) After the Governor designates the manager, the
767 department may execute a management agreement with the
768 designated manager.

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

777 (16) An action to contest the validity of a management
778 agreement entered into under this section may not be brought
779 after the 15th day after the publication of the notice of the
780 designation of the manager under the management agreement as
781 provided in subsection (14).

782 (17) (a) The department must use appropriate experts and
783 professionals needed to conduct a competitive bidding proceeding

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784 as required under this section and may use the services of
785 outside professionals to the extent necessary to carry out its
786 obligations under this section.

787 (b) The department may exercise any powers provided under
788 this section in participation or cooperation with any other
789 governmental entity and enter into any contracts to facilitate
790 that participation or cooperation without compliance with any
791 other statute.

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

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

810 (18) (a) The department may not sell the authorization to
811 operate the lottery.

812 (b) Any tangible personal property used exclusively in

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813 connection with the lottery that is owned by the department and
814 leased to the manager shall be owned by the department in the
815 name of the state and shall be considered to be public property
816 devoted to an essential public and governmental function.

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

820 (20) Neither this section nor any management agreement
821 entered into under this section prohibits the Legislature from
822 authorizing forms of gambling that are not in direct competition
823 with the lottery.

824 Section 11. Section 24.112, Florida Statutes, is amended to
825 read:

826 24.112 Retailers of lottery tickets.-

827 (1) If the department does not enter into a management
828 agreement, the department shall adopt ~~promulgate~~ rules
829 specifying the terms and conditions for contracting with
830 retailers who will best serve the public interest and promote
831 the sale of lottery tickets.

832 (2) If the department does not enter into a management
833 agreement, in the selection of retailers, the department shall
834 consider factors such as financial responsibility, integrity,
835 reputation, accessibility of the place of business or activity
836 to the public, security of the premises, the sufficiency of
837 existing retailers to serve the public convenience, and the
838 projected volume of the sales for the lottery game involved. In
839 the consideration of these factors, the department may require
840 the information it deems necessary of any person applying for
841 authority to act as a retailer. However, the department may not

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842 establish a limitation upon the number of retailers and shall
843 make every effort to allow small business participation as
844 retailers. It is the intent of the Legislature that retailer
845 selections be based on business considerations and the public
846 convenience and that retailers be selected without regard to
847 political affiliation.

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

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

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

855 (c) Has been convicted of, or entered a plea of guilty or
856 nolo contendere to, a felony committed in the preceding 10
857 years, regardless of adjudication, unless the department
858 determines that:

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

861 2. Subsequent to such conviction or entry of plea the
862 person has engaged in the kind of law-abiding commerce and good
863 citizenship that would reflect well upon the integrity of the
864 lottery; or

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

869 (4) If the department does not enter into a management
870 agreement, the department shall issue a certificate of authority

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871 to each person with whom it contracts as a retailer for purposes
872 of display pursuant to subsection (6). The issuance of the
873 certificate does ~~shall~~ not confer upon the retailer any right
874 apart from that specifically granted in the contract. The
875 authority to act as a retailer is ~~shall~~ not be assignable or
876 transferable.

877 (5) Any contract executed by the department under ~~pursuant~~
878 ~~to~~ this section shall specify the reasons for any suspension or
879 termination of the contract by the department, including, but
880 not limited to:

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

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

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

886 (d) Insufficient sale of tickets.

887 (e) Conduct prejudicial to public confidence in the
888 lottery.

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

891 (6) Every retailer shall post and keep conspicuously
892 displayed in a location on the premises accessible to the public
893 its certificate of authority and, with respect to each game, a
894 statement supplied by the department or the manager of the
895 estimated odds of winning some prize for the game.

896 (7) No contract with a retailer shall authorize the sale of
897 lottery tickets at more than one location, and a retailer may
898 sell lottery tickets only at the location stated on the
899 certificate of authority.

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900 (8) If the department does not enter into a management
901 agreement, with respect to any retailer whose rental payments
902 for premises are contractually computed, in whole or in part, on
903 the basis of a percentage of retail sales, and where such
904 computation of retail sales is not explicitly defined to include
905 sales of tickets in a state-operated lottery, the compensation
906 received by the retailer from the department shall be deemed to
907 be the amount of the retail sale for the purposes of such
908 contractual compensation.

909 (9) If the department does not enter into a management
910 agreement:

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

922 (b) In lieu of such bond, the department may purchase
923 blanket bonds covering all or selected retailers or may allow a
924 retailer to deposit and maintain with the Chief Financial
925 Officer securities that are interest bearing or accruing and
926 that, with the exception of those specified in subparagraphs 1.
927 and 2., are rated in one of the four highest classifications by
928 an established nationally recognized investment rating service.

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929 Securities eligible under this paragraph shall be limited to:

930 1. Certificates of deposit issued by solvent banks or
931 savings associations organized and existing under the laws of
932 this state or under the laws of the United States and having
933 their principal place of business in this state.

934 2. United States bonds, notes, and bills for which the full
935 faith and credit of the government of the United States is
936 pledged for the payment of principal and interest.

937 3. General obligation bonds and notes of any political
938 subdivision of the state.

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

941

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

945 (10) Every contract entered into by the department pursuant
946 to this section shall contain a provision for payment of
947 liquidated damages to the department for any breach of contract
948 by the retailer.

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

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

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958 shall be in cash. All such payments shall be in the form of a
959 check, bank draft, electronic fund transfer, or other financial
960 instrument authorized by the secretary.

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

985 (14) The secretary may, after filing with the Department of
986 State his or her manual signature certified by the secretary

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987 under oath, execute or cause to be executed contracts between
988 the department and retailers by means of engraving, imprinting,
989 stamping, or other facsimile signature.

990 Section 12. Section 24.113, Florida Statutes, is amended to
991 read:

992 24.113 Minority participation.—

993 (1) It is the intent of the Legislature that the department
994 or the manager, if any, encourage participation by minority
995 business enterprises as defined in s. 288.703. Accordingly, 15
996 percent of the retailers shall be minority business enterprises
997 as defined in s. 288.703(2); however, no more than 35 percent of
998 such retailers shall be owned by the same type of minority
999 person, as defined in s. 288.703(3). The department or the
1000 manager, if any, is encouraged to meet the minority business
1001 enterprise procurement goals set forth in s. 287.09451 in the
1002 procurement of commodities, contractual services, construction,
1003 and architectural and engineering services. This section shall
1004 not preclude or prohibit a minority person from competing for
1005 any other retailing or vending agreement awarded by the
1006 department or the manager.

1007 (2) The department or the manager, if any, shall ~~is~~
1008 ~~directed to~~ undertake training programs and other educational
1009 activities to enable minority persons to compete for such
1010 contracts on an equal basis.

1011 Section 13. Section 24.114, Florida Statutes, is amended to
1012 read:

1013 24.114 Bank deposits and control of lottery transactions.—

1014 (1) All moneys received by each retailer from the operation
1015 of the state lottery, including, but not limited to, all ticket

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1016 sales, interest, gifts, and donations, less the amount retained
1017 as compensation for the sale of the tickets and the amount paid
1018 out as prizes, shall be remitted to the department or deposited
1019 in a qualified public depository, as defined in s. 280.02, as
1020 directed by the department. The department shall have the
1021 responsibility for all administrative functions related to the
1022 receipt of funds. The department may also require each retailer
1023 to file with the department reports of the retailer's receipts
1024 and transactions in the sale of lottery tickets in such form and
1025 containing such information as the department may require. The
1026 department may require any person, including a qualified public
1027 depository, to perform any function, activity, or service in
1028 connection with the operation of the lottery as it may deem
1029 advisable pursuant to this chapter ~~act~~ and rules of the
1030 department, and such functions, activities, or services shall
1031 constitute lawful functions, activities, and services of such
1032 person.

1033 (2) The department may require retailers to establish
1034 separate electronic funds transfer accounts for the purpose of
1035 receiving moneys from ticket sales, making payments to the
1036 department, and receiving payments from the department.

1037 (3) Each retailer is liable to the department for any and
1038 all tickets accepted or generated by any employee or
1039 representative of that retailer, and the tickets shall be deemed
1040 to have been purchased by the retailer unless returned to the
1041 department within the time and in the manner prescribed by the
1042 department. All moneys received by retailers from the sale of
1043 lottery tickets, less the amount retained as compensation for
1044 the sale of tickets and the amount paid out as prizes by the

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1045 retailer, shall be held in trust prior to delivery to the
1046 department or electronic transfer to the Operating Trust Fund.

1047 Section 14. Section 24.115, Florida Statutes, is amended to
1048 read:

1049 24.115 Payment of prizes.—

1050 (1) The department shall adopt ~~promulgate~~ rules to
1051 establish a system of verifying the validity of tickets claimed
1052 to win prizes and to effect payment of such prizes; however, the
1053 following shall apply whether the department does or does not
1054 enter into a management agreement:

1055 (a) The right of any person to a prize, other than a prize
1056 that is payable in installments over time, is not assignable.
1057 However, any prize, to the extent that it has not been assigned
1058 or encumbered pursuant to s. 24.1153, may be paid to the estate
1059 of a deceased prize winner or to a person designated pursuant to
1060 an appropriate court order. A prize that is payable in
1061 installments over time is assignable, but only pursuant to an
1062 appropriate court order as provided in s. 24.1153.

1063 (b) No prize shall be paid to any person under the age of
1064 18 years unless the winning ticket was lawfully purchased and
1065 made a gift to the minor. In such case, the department or the
1066 manager, if a management agreement is in force, shall direct
1067 payment to an adult member of the minor's family or the legal
1068 guardian of the minor as custodian for the minor. The person
1069 named as custodian shall have the same powers and duties as
1070 prescribed for a custodian pursuant to chapter 710, the Florida
1071 Uniform Transfers to Minors Act.

1072 (c) No prize may be paid arising from claimed tickets that
1073 are stolen, counterfeit, altered, fraudulent, unissued, produced

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1074 or issued in error, unreadable, not received or not recorded by
1075 the department or the manager, if a management agreement is in
1076 force, by applicable deadlines, lacking in captions that confirm
1077 and agree with the lottery play symbols as appropriate to the
1078 lottery game involved, or not in compliance with such additional
1079 specific rules and public or confidential validation and
1080 security tests of the department or the manager, if a management
1081 agreement is in force, appropriate to the particular lottery
1082 game involved.

1083 (d) No particular prize in any lottery game may be paid
1084 more than once, and in the event of a binding determination that
1085 more than one claimant is entitled to a particular prize, the
1086 sole remedy of such claimants is the award to each of them of an
1087 equal share in the prize.

1088 (e) For the convenience of the public, retailers may be
1089 authorized to pay winners amounts less than \$600 after
1090 performing validation procedures on their premises appropriate
1091 to the lottery game involved.

1092 (f) Holders of tickets shall have the right to claim prizes
1093 for 180 days after the drawing or the end of the lottery game or
1094 play in which the prize was won; except that with respect to any
1095 game in which the player may determine instantly if he or she
1096 has won or lost, such right shall exist for 60 days after the
1097 end of the lottery game. If a valid claim is not made for a
1098 prize within the applicable period, the prize shall constitute
1099 an unclaimed prize for purposes of subsection (2).

1100 (g) No prize shall be paid upon a ticket purchased or sold
1101 in violation of this chapter ~~act~~ or to any person who is
1102 prohibited from purchasing a lottery ticket pursuant to this

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1103 chapter ~~act~~. Any such prize shall constitute an unclaimed prize
1104 for purposes of subsection (2).

1105 (2) (a) Eighty percent of all unclaimed prize money shall be
1106 deposited in the Educational Enhancement Trust Fund consistent
1107 with the provisions of s. 24.121(2). Subject to appropriations
1108 provided in the General Appropriations Act, these funds may be
1109 used to match private contributions received under the
1110 postsecondary matching grant programs established in ss.
1111 1011.32, 1011.85, 1011.94, and 1013.79.

1112 (b) The remaining 20 percent of unclaimed prize money shall
1113 be added to the pool from which future prizes are to be awarded
1114 or used for special prize promotions.

1115 (3) The department and the manager, if a management
1116 agreement is in force, shall be discharged of all liability upon
1117 payment of a prize.

1118 (4) It is the responsibility of the appropriate state
1119 agency and of the judicial branch to identify to the department
1120 or the manager, if a management agreement is in force, in the
1121 form and format prescribed by the department or the manager,
1122 persons owing an outstanding debt to any state agency or owing
1123 child support collected through a court, including spousal
1124 support or alimony for the spouse or former spouse of the
1125 obligor if the child support obligation is being enforced by the
1126 Department of Revenue. Prior to the payment of a prize of \$600
1127 or more to any claimant having such an outstanding obligation,
1128 the department or the manager shall transmit the amount of the
1129 debt to the agency claiming the debt and shall authorize payment
1130 of the balance to the prize winner after deduction of the debt.
1131 If a prize winner owes multiple debts subject to offset under

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1132 this subsection and the prize is insufficient to cover all such
1133 debts, the amount of the prize shall be transmitted first to the
1134 agency claiming that past due child support is owed. If a
1135 balance of lottery prize remains after payment of past due child
1136 support, the remaining lottery prize amount shall be transmitted
1137 to other agencies claiming debts owed to the state, pro rata,
1138 based upon the ratio of the individual debt to the remaining
1139 debt owed to the state.

1140 Section 15. Section 24.1153, Florida Statutes, is amended
1141 to read:

1142 24.1153 Assignment of prizes payable in installments.—

1143 (1) The right of any person to receive payments under a
1144 prize that is paid in installments over time by the department
1145 or the manager, if a management agreement is in force, may be
1146 voluntarily assigned, in whole or in part, if the assignment is
1147 made to a person or entity designated pursuant to an order of a
1148 court of competent jurisdiction located in the judicial district
1149 where the assigning prize winner resides or where the
1150 headquarters of the department is located or where in the state
1151 the headquarters of the manager is located, if a management
1152 agreement is in force. A court may issue an order approving a
1153 voluntary assignment and directing the department or the manager
1154 to make prize payments in whole or in part to the designated
1155 assignee, if the court finds that all of the following
1156 conditions have been met:

1157 (a) The assignment is in writing, is executed by the
1158 assignor, and is, by its terms, subject to the laws of this
1159 state.

1160 (b) The purchase price being paid for the payments being

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1161 assigned represents a present value of the payments being
1162 assigned, discounted at an annual rate that does not exceed the
1163 state's usury limit for loans.

1164 (c) The assignor provides a sworn affidavit attesting that
1165 he or she:

1166 1. Is of sound mind, is in full command of his or her
1167 faculties, and is not acting under duress;

1168 2. Has been advised regarding the assignment by his or her
1169 own independent legal counsel, who is unrelated to and is not
1170 being compensated by the assignee or any of the assignee's
1171 affiliates, and has received independent financial or tax advice
1172 concerning the effects of the assignment from a lawyer or other
1173 professional who is unrelated to and is not being compensated by
1174 the assignee or any of the assignee's affiliates;

1175 3. Understands that he or she will not receive the prize
1176 payments or portions thereof for the years assigned;

1177 4. Understands and agrees that with regard to the assigned
1178 payments the department and the manager, and their respective
1179 ~~its~~ officials and employees, will have no further liability or
1180 responsibility to make the assigned payments to him or her;

1181 5. Has been provided with a one-page written disclosure
1182 statement setting forth, in bold type of not less than 14
1183 points, the payments being assigned, by amounts and payment
1184 dates; the purchase price being paid; the rate of discount to
1185 present value, assuming daily compounding and funding on the
1186 contract date; and the amount, if any, of any origination or
1187 closing fees that will be charged to him or her; and

1188 6. Was advised in writing, at the time he or she signed the
1189 assignment contract, that he or she had the right to cancel the

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1190 contract, without any further obligation, within 3 business days
1191 following the date on which the contract was signed.

1192 (d) Written notice of the proposed assignment and any court
1193 hearing concerning the proposed assignment is provided to the
1194 department's or the manager's counsel at least 10 days prior to
1195 any court hearing. The department or the manager is not required
1196 to appear in or be named as a party to any such action seeking
1197 judicial confirmation of an assignment under this section, but
1198 may intervene as of right in any such proceeding.

1199 (2) A certified copy of a court order approving a voluntary
1200 assignment must be provided to the department or the manager no
1201 later than 14 days before the date on which the payment is to be
1202 made.

1203 (3) In accordance with the provisions of s. 24.115(4), a
1204 voluntary assignment may not include or cover payments or
1205 portions of payments that are subject to offset on account of a
1206 defaulted or delinquent child support obligation or on account
1207 of a debt owed to a state agency. Each court order issued under
1208 subsection (1) shall provide that any delinquent child support
1209 obligations of the assigning prize winner and any debts owed to
1210 a state agency by the assigning prize winner, as of the date of
1211 the court order, shall be offset by the department or the
1212 manager first against remaining payments or portions thereof due
1213 the prize winner and then against payments due the assignee.

1214 (4) The department and the manager, and their ~~its~~
1215 respective officials and employees, shall be discharged of all
1216 liability upon payment of an assigned prize under this section.

1217 (5) The department or the manager may establish a
1218 reasonable fee to defray any administrative expenses associated

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1219 with assignments made under this section, including the cost to
 1220 the department or the manager of any processing fee that may be
 1221 imposed by a private annuity provider. The fee amount shall
 1222 reflect the direct and indirect costs associated with processing
 1223 such assignments.

1224 (6) If at any time the Internal Revenue Service or a court
 1225 of competent jurisdiction issues a determination letter, revenue
 1226 ruling, other public ruling of the Internal Revenue Service, or
 1227 published decision to any state lottery or prize winner of any
 1228 state lottery declaring that the voluntary assignment of prizes
 1229 will affect the federal income tax treatment of prize winners
 1230 who do not assign their prizes, the secretary of the department
 1231 shall immediately file a copy of that letter, ruling, or
 1232 published decision with the Secretary of State and the Office of
 1233 the State Courts Administrator. A court may not issue an order
 1234 authorizing a voluntary assignment under this section after the
 1235 date any such ruling, letter, or published decision is filed.

1236 Section 16. Section 24.117, Florida Statutes, is amended to
 1237 read:

1238 24.117 Unlawful sale of lottery tickets; penalty.—Any
 1239 person who knowingly:

1240 (1) Sells a state lottery ticket when not authorized by the
 1241 department or this chapter ~~act~~ to engage in such sale;

1242 (2) Sells a state lottery ticket to a minor; or

1243 (3) Sells a state lottery ticket at any price other than
 1244 that established by the department;

1245
 1246 commits ~~is guilty of~~ a misdemeanor of the first degree,
 1247 punishable as provided in s. 775.082 or s. 775.083.

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1248 Section 17. Subsections (4) and (5) of section 24.118,
1249 Florida Statutes, are amended to read:

1250 24.118 Other prohibited acts; penalties.—

1251 (4) BREACH OF CONFIDENTIALITY.—Any person who, with intent
1252 to defraud or with intent to provide a financial or other
1253 advantage to himself, herself, or another, knowingly and
1254 willfully discloses any information relating to the lottery
1255 designated as confidential and exempt from the provisions of s.
1256 119.07(1) pursuant to this chapter commits ~~act is guilty of~~ a
1257 felony of the first degree, punishable as provided in s.
1258 775.082, s. 775.083, or s. 775.084.

1259 (5) UNLAWFUL REPRESENTATION.—

1260 (a) Any person who uses point-of-sale materials issued by
1261 the department or the manager or otherwise holds himself or
1262 herself out as a retailer without being authorized by the
1263 department or the manager to act as a retailer commits ~~is guilty~~
1264 ~~of~~ a misdemeanor of the first degree, punishable as provided in
1265 s. 775.082 or s. 775.083.

1266 (b) Any person who without being authorized by the
1267 department or the manager in writing uses the term "Florida
1268 Lottery," "State Lottery," "Florida State Lottery," or any
1269 similar term in the title or name of any charitable or
1270 commercial enterprise, product, or service commits ~~is guilty of~~
1271 a misdemeanor of the first degree, punishable as provided in s.
1272 775.082 or s. 775.083.

1273 Section 18. Subsections (1) and (2) of section 24.120,
1274 Florida Statutes, are amended to read:

1275 24.120 Financial matters; Operating Trust Fund; interagency
1276 cooperation.—

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1277 (1) There is hereby created in the State Treasury an
1278 Operating Trust Fund to be administered in accordance with
1279 chapters 215 and 216 by the department. All money received by
1280 the department which remains after payment of prizes and initial
1281 compensation paid to retailers shall be deposited into the
1282 Operating Trust Fund. All moneys in the trust fund are
1283 appropriated to the department for the purposes specified in
1284 this chapter ~~act~~.

1285 (2) Moneys available for the payment of prizes awarded by
1286 the department, on a deferred basis shall be invested by the
1287 State Board of Administration in accordance with a trust
1288 agreement approved by the secretary and entered into between the
1289 department and the State Board of Administration in accordance
1290 with ss. 215.44-215.53. The investments authorized by this
1291 subsection shall be done in a manner designed to preserve
1292 capital and to ensure the integrity of the lottery disbursement
1293 system by eliminating the risk of payment of funds when due and
1294 to produce equal annual sums of money over the required term of
1295 the investments.

1296 Section 19. Subsections (1), (2), and (3) of section
1297 24.121, Florida Statutes, are amended to read:

1298 24.121 Allocation of revenues and expenditure of funds for
1299 public education.—

1300 (1) Variable percentages of the gross revenue from the sale
1301 of online and instant lottery tickets shall be returned to the
1302 public in the form of prizes paid by the department or retailers
1303 as authorized by this chapter ~~act~~. The variable percentages of
1304 gross revenue from the sale of online and instant lottery
1305 tickets returned to the public in the form of prizes shall be

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1306 established by the department in a manner designed to maximize
1307 the amount of funds deposited under subsection (2).

1308 (2) Each fiscal year, variable percentages of the gross
1309 revenue from the sale of online and instant lottery tickets as
1310 determined by the department consistent with subsection (1), and
1311 other earned revenue up to the amount of the state annuity
1312 requirement, excluding application processing fees, shall be
1313 deposited in the Educational Enhancement Trust Fund, which is
1314 hereby created in the State Treasury to be administered by the
1315 Department of Education. If the department enters into a
1316 management agreement, the proceeds received by the department
1317 from the management agreement under s. 24.1115(7)(b) and (c)
1318 shall be deposited in the Educational Enhancement Trust Fund,
1319 with, at a minimum, the greater of \$400 million or one-third of
1320 the funds deposited into the trust fund to be allocated to the
1321 Florida Bright Futures Scholarship Program. The Department of
1322 the Lottery shall transfer moneys to the Educational Enhancement
1323 Trust Fund at least once each quarter. Funds in the Educational
1324 Enhancement Trust Fund shall be used to the benefit of public
1325 education in accordance with the provisions of this chapter ~~act~~.
1326 Notwithstanding any other provision of law, lottery revenues
1327 transferred to the Educational Enhancement Trust Fund shall be
1328 reserved as needed and used to meet the requirements of the
1329 documents authorizing the bonds issued by the state pursuant to
1330 s. 1013.68, s. 1013.70, or s. 1013.737 or distributed to school
1331 districts for the Classrooms First Program as provided in s.
1332 1013.68. Such lottery revenues are hereby pledged to the payment
1333 of debt service on bonds issued by the state pursuant to s.
1334 1013.68, s. 1013.70, or s. 1013.737. Debt service payable on

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1335 bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or
1336 s. 1013.737 shall be payable from, and is secured by a first
1337 lien on, the first lottery revenues transferred to the
1338 Educational Enhancement Trust Fund in each fiscal year. Amounts
1339 distributable to school districts that request the issuance of
1340 bonds pursuant to s. 1013.68(3) are hereby pledged to such bonds
1341 pursuant to s. 11(d), Art. VII of the State Constitution.

1342 (3) The funds remaining in the Operating Trust Fund after
1343 transfers to the Educational Enhancement Trust Fund shall be
1344 used for the payment of administrative expenses of the
1345 department. These expenses shall include all costs incurred in
1346 the department's direct operation and administration of the
1347 lottery or the management agreement and all costs resulting from
1348 any contracts entered into for the purchase or lease of goods or
1349 services required by the lottery, including, but not limited to:

1350 (a) The compensation paid to retailers;

1351 (b) The costs of supplies, materials, tickets, independent
1352 audit services, independent studies, data transmission,
1353 advertising, promotion, incentives, public relations,
1354 communications, security, bonding for retailers, printing,
1355 distribution of tickets, and reimbursing other governmental
1356 entities for services provided to the lottery; and

1357 (c) The costs of any other goods and services necessary for
1358 effectuating the purposes of this chapter ~~act~~.

1359 Section 20. Section 24.122, Florida Statutes, is amended to
1360 read:

1361 24.122 Exemption from taxation; state preemption;
1362 inapplicability of other laws.—

1363 (1) This chapter ~~act~~ shall not be construed to authorize

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1364 any lottery except the lottery operated by the department or the
1365 manager under ~~pursuant to~~ this chapter act.

1366 (2) No state or local tax shall be imposed upon any prize
1367 paid or payable under this chapter act or upon the sale of any
1368 lottery ticket pursuant to this chapter act.

1369 (3) All matters relating to the operation of the state
1370 lottery are preempted to the state, and no county, municipality,
1371 or other political subdivision of the state shall enact any
1372 ordinance relating to the operation of the lottery authorized by
1373 this chapter act. However, this subsection shall not prohibit a
1374 political subdivision of the state from requiring a retailer to
1375 obtain an occupational license for any business unrelated to the
1376 sale of lottery tickets.

1377 (4) Any state or local law providing any penalty,
1378 disability, restriction, or prohibition for the possession,
1379 manufacture, transportation, distribution, advertising, or sale
1380 of any lottery ticket, including chapter 849, shall not apply to
1381 the tickets of the state lottery operated pursuant to this
1382 chapter act; nor shall any such law apply to the possession of a
1383 ticket issued by any other government-operated lottery. In
1384 addition, activities of the department under this chapter act
1385 are exempt from the provisions of:

1386 (a) Chapter 616, relating to public fairs and expositions.

1387 (b) Chapter 946, relating to correctional work programs.

1388 (c) Chapter 282, relating to communications and data
1389 processing.

1390 (d) Section 110.131, relating to other personal services.

1391 Section 21. Section 24.123, Florida Statutes, is amended to
1392 read:

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1393 24.123 Annual audit of financial records and reports.-

1394 (1) The Legislative Auditing Committee shall contract with
1395 a certified public accountant licensed pursuant to chapter 473
1396 for an annual financial audit of the department. The certified
1397 public accountant shall have no financial interest in any vendor
1398 or manager with whom the department is under contract. The
1399 certified public accountant shall present an audit report no
1400 later than 7 months after the end of the fiscal year and shall
1401 make recommendations to enhance the earning capability of the
1402 state lottery or the management agreement and to improve the
1403 efficiency of department operations. The certified public
1404 accountant shall also perform a study and evaluation of internal
1405 accounting controls and shall express an opinion on those
1406 controls in effect during the audit period. The cost of the
1407 annual financial audit shall be paid by the department.

1408 (2) The Auditor General may at any time conduct an audit of
1409 any phase of the operations of the state lottery or the
1410 management agreement and shall receive a copy of the yearly
1411 independent financial audit and any security report prepared
1412 pursuant to s. 24.108.

1413 (3) A copy of any audit performed pursuant to this section
1414 shall be submitted to the secretary, the Governor, the President
1415 of the Senate, the Speaker of the House of Representatives, and
1416 members of the Legislative Auditing Committee.

1417 Section 22. Subsection (1) of section 24.124, Florida
1418 Statutes, is amended to read:

1419 24.124 Responsibility for ticket accuracy; department,
1420 retailer, and vendor liability.-

1421 (1) Purchasers of online games tickets shall be responsible

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1422 for verifying the accuracy of their tickets, including the
1423 number or numbers printed on the tickets. In the event of an
1424 error, the ticket may be canceled and a replacement ticket
1425 issued pursuant to rules adopted ~~promulgated~~ by the department
1426 ~~of the Lottery~~.

1427 Section 23. This act shall take effect January 1, 2012.