

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:

79  
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 security

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407 procedures, including, but not limited to, computer security and  
408 systems security, to conduct a comprehensive study and  
409 evaluation of all aspects of security in the operation of the  
410 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) So long as the manager complies with all the conditions  
587 of the agreement under the oversight of the department, the  
588 manager shall perform its duties and obligations with respect to  
589 management of the operation of the lottery, including the  
590 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) The transition of rights and obligations, including any  
645 associated equipment or other assets used in the operation of  
646 the lottery, from the manager to any successor manager of the  
647 lottery, including the department, following the termination of  
648 or foreclosure upon the management agreement.

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

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

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

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

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

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668 decides to pursue the possibility of a management agreement, a  
669 request for qualifications must be issued as set forth in this  
670 section. A request for qualifications for a management agreement  
671 may be issued in one or more phases.

672 (b) A request for qualifications must include the  
673 following:

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

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

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

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

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

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

693 (11) The contents of proposals are competitive sealed  
694 replies in response to an invitation to negotiate for purposes  
695 of s. 119.071(1) (b) and are exempt from s. 119.07(1) and s.  
696 24(a), Art. I of the State Constitution until disclosure of the

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697 contents that are not otherwise exempt under s. 119.071 or other  
698 law is required under s. 119.071(1)(b).

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

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

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

712 2. Financial strength, including capitalization and  
713 available financial resources.

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

718 4. Integrity, background, and reputation.

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

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

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

725 2. Terminate the request for qualifications process.

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

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

732 2. The subject matter of the hearing.

733 3. A brief description of the management agreement to be  
734 awarded.

735 4. The identity of the offeror that has been preliminarily  
736 selected as the manager.

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

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

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

752 (d) At the hearing, the department shall allow the public  
753 to be heard on the preliminary selection.

754 (14) (a) After the hearing required under subsection (13),

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755 the department shall determine if a management agreement should  
756 be entered into with the offeror that submitted the selected  
757 offer. If the department makes a favorable determination, the  
758 department shall submit the determination to the Governor.

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

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

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

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

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

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784 obligations under this section.

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

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

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

808 (18) (a) The department may not sell the authorization to  
809 operate the lottery.

810 (b) Any tangible personal property used exclusively in  
811 connection with the lottery that is owned by the department and  
812 leased to the manager shall be owned by the department in the

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813 name of the state and shall be considered to be public property  
814 devoted to an essential public and governmental function.

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

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

822 Section 11. Section 24.112, Florida Statutes, is amended to  
823 read:

824 24.112 Retailers of lottery tickets.—

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

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

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842 retailers. It is the intent of the Legislature that retailer  
843 selections be based on business considerations and the public  
844 convenience and that retailers be selected without regard to  
845 political affiliation.

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

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

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

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

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

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

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

867 (4) If the department does not enter into a management  
868 agreement, the department shall issue a certificate of authority  
869 to each person with whom it contracts as a retailer for purposes  
870 of display pursuant to subsection (6). The issuance of the

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871 certificate does ~~shall~~ not confer upon the retailer any right  
872 apart from that specifically granted in the contract. The  
873 authority to act as a retailer is ~~shall~~ not ~~be~~ assignable or  
874 transferable.

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

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

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

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

884 (d) Insufficient sale of tickets.

885 (e) Conduct prejudicial to public confidence in the  
886 lottery.

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

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

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

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

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

907 (9) If the department does not enter into a management  
908 agreement:

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

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

928 1. Certificates of deposit issued by solvent banks or

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929 savings associations organized and existing under the laws of  
930 this state or under the laws of the United States and having  
931 their principal place of business in this state.

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

935 3. General obligation bonds and notes of any political  
936 subdivision of the state.

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

939

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

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

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

955 (12) No payment by a retailer to the department for tickets  
956 shall be in cash. All such payments shall be in the form of a  
957 check, bank draft, electronic fund transfer, or other financial

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958 instrument authorized by the secretary.

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

983 (14) The secretary may, after filing with the Department of  
984 State his or her manual signature certified by the secretary  
985 under oath, execute or cause to be executed contracts between  
986 the department and retailers by means of engraving, imprinting,

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987 stamping, or other facsimile signature.

988 Section 12. Section 24.113, Florida Statutes, is amended to  
989 read:

990 24.113 Minority participation.—

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

1005 (2) The department or the manager, if any, shall ~~is~~  
1006 ~~directed to~~ undertake training programs and other educational  
1007 activities to enable minority persons to compete for such  
1008 contracts on an equal basis.

1009 Section 13. Section 24.114, Florida Statutes, is amended to  
1010 read:

1011 24.114 Bank deposits and control of lottery transactions.—

1012 (1) All moneys received by each retailer from the operation  
1013 of the state lottery, including, but not limited to, all ticket  
1014 sales, interest, gifts, and donations, less the amount retained  
1015 as compensation for the sale of the tickets and the amount paid

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

1031 (2) The department may require retailers to establish  
1032 separate electronic funds transfer accounts for the purpose of  
1033 receiving moneys from ticket sales, making payments to the  
1034 department, and receiving payments from the department.

1035 (3) Each retailer is liable to the department for any and  
1036 all tickets accepted or generated by any employee or  
1037 representative of that retailer, and the tickets shall be deemed  
1038 to have been purchased by the retailer unless returned to the  
1039 department within the time and in the manner prescribed by the  
1040 department. All moneys received by retailers from the sale of  
1041 lottery tickets, less the amount retained as compensation for  
1042 the sale of tickets and the amount paid out as prizes by the  
1043 retailer, shall be held in trust prior to delivery to the  
1044 department or electronic transfer to the Operating Trust Fund.

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1045 Section 14. Section 24.115, Florida Statutes, is amended to  
1046 read:

1047 24.115 Payment of prizes.—

1048 (1) The department shall promulgate rules to establish a  
1049 system of verifying the validity of tickets claimed to win  
1050 prizes and to effect payment of such prizes; however, the  
1051 following shall apply whether the department does or does not  
1052 enter into a management agreement:

1053 (a) The right of any person to a prize, other than a prize  
1054 that is payable in installments over time, is not assignable.  
1055 However, any prize, to the extent that it has not been assigned  
1056 or encumbered pursuant to s. 24.1153, may be paid to the estate  
1057 of a deceased prize winner or to a person designated pursuant to  
1058 an appropriate court order. A prize that is payable in  
1059 installments over time is assignable, but only pursuant to an  
1060 appropriate court order as provided in s. 24.1153.

1061 (b) No prize shall be paid to any person under the age of  
1062 18 years unless the winning ticket was lawfully purchased and  
1063 made a gift to the minor. In such case, the department or the  
1064 manager, if a management agreement is in force, shall direct  
1065 payment to an adult member of the minor's family or the legal  
1066 guardian of the minor as custodian for the minor. The person  
1067 named as custodian shall have the same powers and duties as  
1068 prescribed for a custodian pursuant to chapter 710, the Florida  
1069 Uniform Transfers to Minors Act.

1070 (c) No prize may be paid arising from claimed tickets that  
1071 are stolen, counterfeit, altered, fraudulent, unissued, produced  
1072 or issued in error, unreadable, not received or not recorded by  
1073 the department or the manager, if a management agreement is in

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

1081 (d) No particular prize in any lottery game may be paid  
1082 more than once, and in the event of a binding determination that  
1083 more than one claimant is entitled to a particular prize, the  
1084 sole remedy of such claimants is the award to each of them of an  
1085 equal share in the prize.

1086 (e) For the convenience of the public, retailers may be  
1087 authorized to pay winners amounts less than \$600 after  
1088 performing validation procedures on their premises appropriate  
1089 to the lottery game involved.

1090 (f) Holders of tickets shall have the right to claim prizes  
1091 for 180 days after the drawing or the end of the lottery game or  
1092 play in which the prize was won; except that with respect to any  
1093 game in which the player may determine instantly if he or she  
1094 has won or lost, such right shall exist for 60 days after the  
1095 end of the lottery game. If a valid claim is not made for a  
1096 prize within the applicable period, the prize shall constitute  
1097 an unclaimed prize for purposes of subsection (2).

1098 (g) No prize shall be paid upon a ticket purchased or sold  
1099 in violation of this chapter ~~act~~ or to any person who is  
1100 prohibited from purchasing a lottery ticket pursuant to this  
1101 chapter ~~act~~. Any such prize shall constitute an unclaimed prize  
1102 for purposes of subsection (2).

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1103 (2) (a) Eighty percent of all unclaimed prize money shall be  
1104 deposited in the Educational Enhancement Trust Fund consistent  
1105 with the provisions of s. 24.121(2). Subject to appropriations  
1106 provided in the General Appropriations Act, these funds may be  
1107 used to match private contributions received under the  
1108 postsecondary matching grant programs established in ss.  
1109 1011.32, 1011.85, 1011.94, and 1013.79.

1110 (b) The remaining 20 percent of unclaimed prize money shall  
1111 be added to the pool from which future prizes are to be awarded  
1112 or used for special prize promotions.

1113 (3) The department or the manager, if a management  
1114 agreement is in force, shall be discharged of all liability upon  
1115 payment of a prize.

1116 (4) It is the responsibility of the appropriate state  
1117 agency and of the judicial branch to identify to the department  
1118 or the manager, if a management agreement is in force, in the  
1119 form and format prescribed by the department or the manager,  
1120 persons owing an outstanding debt to any state agency or owing  
1121 child support collected through a court, including spousal  
1122 support or alimony for the spouse or former spouse of the  
1123 obligor if the child support obligation is being enforced by the  
1124 Department of Revenue. Prior to the payment of a prize of \$600  
1125 or more to any claimant having such an outstanding obligation,  
1126 the department or the manager shall transmit the amount of the  
1127 debt to the agency claiming the debt and shall authorize payment  
1128 of the balance to the prize winner after deduction of the debt.  
1129 If a prize winner owes multiple debts subject to offset under  
1130 this subsection and the prize is insufficient to cover all such  
1131 debts, the amount of the prize shall be transmitted first to the

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

1138 Section 15. Section 24.1153, Florida Statutes, is amended  
1139 to read:

1140 24.1153 Assignment of prizes payable in installments.—

1141 (1) The right of any person to receive payments under a  
1142 prize that is paid in installments over time by the department  
1143 or the manager, if a management agreement is in force, may be  
1144 voluntarily assigned, in whole or in part, if the assignment is  
1145 made to a person or entity designated pursuant to an order of a  
1146 court of competent jurisdiction located in the judicial district  
1147 where the assigning prize winner resides or where the  
1148 headquarters of the department is located or where in the state  
1149 the headquarters of the manager is located, if a management  
1150 agreement is in force. A court may issue an order approving a  
1151 voluntary assignment and directing the department or the manager  
1152 to make prize payments in whole or in part to the designated  
1153 assignee, if the court finds that all of the following  
1154 conditions have been met:

1155 (a) The assignment is in writing, is executed by the  
1156 assignor, and is, by its terms, subject to the laws of this  
1157 state.

1158 (b) The purchase price being paid for the payments being  
1159 assigned represents a present value of the payments being  
1160 assigned, discounted at an annual rate that does not exceed the

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1161 state's usury limit for loans.

1162 (c) The assignor provides a sworn affidavit attesting that  
1163 he or she:

1164 1. Is of sound mind, is in full command of his or her  
1165 faculties, and is not acting under duress;

1166 2. Has been advised regarding the assignment by his or her  
1167 own independent legal counsel, who is unrelated to and is not  
1168 being compensated by the assignee or any of the assignee's  
1169 affiliates, and has received independent financial or tax advice  
1170 concerning the effects of the assignment from a lawyer or other  
1171 professional who is unrelated to and is not being compensated by  
1172 the assignee or any of the assignee's affiliates;

1173 3. Understands that he or she will not receive the prize  
1174 payments or portions thereof for the years assigned;

1175 4. Understands and agrees that with regard to the assigned  
1176 payments the department or the manager and its officials and  
1177 employees will have no further liability or responsibility to  
1178 make the assigned payments to him or her;

1179 5. Has been provided with a one-page written disclosure  
1180 statement setting forth, in bold type of not less than 14  
1181 points, the payments being assigned, by amounts and payment  
1182 dates; the purchase price being paid; the rate of discount to  
1183 present value, assuming daily compounding and funding on the  
1184 contract date; and the amount, if any, of any origination or  
1185 closing fees that will be charged to him or her; and

1186 6. Was advised in writing, at the time he or she signed the  
1187 assignment contract, that he or she had the right to cancel the  
1188 contract, without any further obligation, within 3 business days  
1189 following the date on which the contract was signed.

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1190 (d) Written notice of the proposed assignment and any court  
1191 hearing concerning the proposed assignment is provided to the  
1192 department's or the manager's counsel at least 10 days prior to  
1193 any court hearing. The department or the manager is not required  
1194 to appear in or be named as a party to any such action seeking  
1195 judicial confirmation of an assignment under this section, but  
1196 may intervene as of right in any such proceeding.

1197 (2) A certified copy of a court order approving a voluntary  
1198 assignment must be provided to the department or the manager no  
1199 later than 14 days before the date on which the payment is to be  
1200 made.

1201 (3) In accordance with the provisions of s. 24.115(4), a  
1202 voluntary assignment may not include or cover payments or  
1203 portions of payments that are subject to offset on account of a  
1204 defaulted or delinquent child support obligation or on account  
1205 of a debt owed to a state agency. Each court order issued under  
1206 subsection (1) shall provide that any delinquent child support  
1207 obligations of the assigning prize winner and any debts owed to  
1208 a state agency by the assigning prize winner, as of the date of  
1209 the court order, shall be offset by the department or the  
1210 manager first against remaining payments or portions thereof due  
1211 the prize winner and then against payments due the assignee.

1212 (4) The department or the manager, and its respective  
1213 officials and employees, shall be discharged of all liability  
1214 upon payment of an assigned prize under this section.

1215 (5) The department or the manager may establish a  
1216 reasonable fee to defray any administrative expenses associated  
1217 with assignments made under this section, including the cost to  
1218 the department or the manager of any processing fee that may be

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1219 imposed by a private annuity provider. The fee amount shall  
1220 reflect the direct and indirect costs associated with processing  
1221 such assignments.

1222 (6) If at any time the Internal Revenue Service or a court  
1223 of competent jurisdiction issues a determination letter, revenue  
1224 ruling, other public ruling of the Internal Revenue Service, or  
1225 published decision to any state lottery or prize winner of any  
1226 state lottery declaring that the voluntary assignment of prizes  
1227 will affect the federal income tax treatment of prize winners  
1228 who do not assign their prizes, the secretary of the department  
1229 shall immediately file a copy of that letter, ruling, or  
1230 published decision with the Secretary of State and the Office of  
1231 the State Courts Administrator. A court may not issue an order  
1232 authorizing a voluntary assignment under this section after the  
1233 date any such ruling, letter, or published decision is filed.

1234 Section 16. Section 24.117, Florida Statutes, is amended to  
1235 read:

1236 24.117 Unlawful sale of lottery tickets; penalty.—Any  
1237 person who knowingly:

1238 (1) Sells a state lottery ticket when not authorized by the  
1239 department or this chapter ~~act~~ to engage in such sale;

1240 (2) Sells a state lottery ticket to a minor; or

1241 (3) Sells a state lottery ticket at any price other than  
1242 that established by the department;

1243  
1244 commits ~~is guilty of~~ a misdemeanor of the first degree,  
1245 punishable as provided in s. 775.082 or s. 775.083.

1246 Section 17. Subsections (4) and (5) of section 24.118,  
1247 Florida Statutes, are amended to read:

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1248 24.118 Other prohibited acts; penalties.—

1249 (4) BREACH OF CONFIDENTIALITY.—Any person who, with intent  
 1250 to defraud or with intent to provide a financial or other  
 1251 advantage to himself, herself, or another, knowingly and  
 1252 willfully discloses any information relating to the lottery  
 1253 designated as confidential and exempt from the provisions of s.  
 1254 119.07(1) pursuant to this chapter commits ~~act is guilty of~~ a  
 1255 felony of the first degree, punishable as provided in s.  
 1256 775.082, s. 775.083, or s. 775.084.

1257 (5) UNLAWFUL REPRESENTATION.—

1258 (a) Any person who uses point-of-sale materials issued by  
 1259 the department or the manager or otherwise holds himself or  
 1260 herself out as a retailer without being authorized by the  
 1261 department or the manager to act as a retailer commits ~~is guilty~~  
 1262 ~~of~~ a misdemeanor of the first degree, punishable as provided in  
 1263 s. 775.082 or s. 775.083.

1264 (b) Any person who without being authorized by the  
 1265 department or the manager in writing uses the term "Florida  
 1266 Lottery," "State Lottery," "Florida State Lottery," or any  
 1267 similar term in the title or name of any charitable or  
 1268 commercial enterprise, product, or service commits ~~is guilty of~~  
 1269 a misdemeanor of the first degree, punishable as provided in s.  
 1270 775.082 or s. 775.083.

1271 Section 18. Subsections (1) and (2) of section 24.120,  
 1272 Florida Statutes, are amended to read:

1273 24.120 Financial matters; Operating Trust Fund; interagency  
 1274 cooperation.—

1275 (1) There is hereby created in the State Treasury an  
 1276 Operating Trust Fund to be administered in accordance with

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1277 chapters 215 and 216 by the department. All money received by  
1278 the department which remains after payment of prizes and initial  
1279 compensation paid to retailers shall be deposited into the  
1280 Operating Trust Fund. All moneys in the trust fund are  
1281 appropriated to the department for the purposes specified in  
1282 this chapter ~~act~~.

1283 (2) Moneys available for the payment of prizes awarded by  
1284 the department, on a deferred basis shall be invested by the  
1285 State Board of Administration in accordance with a trust  
1286 agreement approved by the secretary and entered into between the  
1287 department and the State Board of Administration in accordance  
1288 with ss. 215.44-215.53. The investments authorized by this  
1289 subsection shall be done in a manner designed to preserve  
1290 capital and to ensure the integrity of the lottery disbursement  
1291 system by eliminating the risk of payment of funds when due and  
1292 to produce equal annual sums of money over the required term of  
1293 the investments.

1294 Section 19. Subsections (1), (2), and (3) of section  
1295 24.121, Florida Statutes, are amended to read:

1296 24.121 Allocation of revenues and expenditure of funds for  
1297 public education.—

1298 (1) Variable percentages of the gross revenue from the sale  
1299 of online and instant lottery tickets shall be returned to the  
1300 public in the form of prizes paid by the department or retailers  
1301 as authorized by this chapter ~~act~~. The variable percentages of  
1302 gross revenue from the sale of online and instant lottery  
1303 tickets returned to the public in the form of prizes shall be  
1304 established by the department in a manner designed to maximize  
1305 the amount of funds deposited under subsection (2).

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1306 (2) Each fiscal year, variable percentages of the gross  
1307 revenue from the sale of online and instant lottery tickets as  
1308 determined by the department consistent with subsection (1), and  
1309 other earned revenue up to the amount of the state annuity  
1310 requirement, excluding application processing fees, shall be  
1311 deposited in the Educational Enhancement Trust Fund, which is  
1312 hereby created in the State Treasury to be administered by the  
1313 Department of Education. If the department enters into a  
1314 management agreement, the proceeds received by the department  
1315 from the management agreement under s. 24.1115(7)(b) and (c)  
1316 shall be deposited in the Educational Enhancement Trust Fund,  
1317 with, at minimum, the greater of \$400 million or one-third of  
1318 the funds deposited into the trust fund to be allocated to the  
1319 Florida Bright Futures Scholarship Program. The Department of  
1320 the Lottery shall transfer moneys to the Educational Enhancement  
1321 Trust Fund at least once each quarter. Funds in the Educational  
1322 Enhancement Trust Fund shall be used to the benefit of public  
1323 education in accordance with the provisions of this chapter act.  
1324 Notwithstanding any other provision of law, lottery revenues  
1325 transferred to the Educational Enhancement Trust Fund shall be  
1326 reserved as needed and used to meet the requirements of the  
1327 documents authorizing the bonds issued by the state pursuant to  
1328 s. 1013.68, s. 1013.70, or s. 1013.737 or distributed to school  
1329 districts for the Classrooms First Program as provided in s.  
1330 1013.68. Such lottery revenues are hereby pledged to the payment  
1331 of debt service on bonds issued by the state pursuant to s.  
1332 1013.68, s. 1013.70, or s. 1013.737. Debt service payable on  
1333 bonds issued by the state pursuant to s. 1013.68, s. 1013.70, or  
1334 s. 1013.737 shall be payable from, and is secured by a first

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1335 lien on, the first lottery revenues transferred to the  
1336 Educational Enhancement Trust Fund in each fiscal year. Amounts  
1337 distributable to school districts that request the issuance of  
1338 bonds pursuant to s. 1013.68(3) are hereby pledged to such bonds  
1339 pursuant to s. 11(d), Art. VII of the State Constitution.

1340 (3) The funds remaining in the Operating Trust Fund after  
1341 transfers to the Educational Enhancement Trust Fund shall be  
1342 used for the payment of administrative expenses of the  
1343 department. These expenses shall include all costs incurred in  
1344 the department's direct operation and administration of the  
1345 lottery or the management agreement and all costs resulting from  
1346 any contracts entered into for the purchase or lease of goods or  
1347 services required by the lottery, including, but not limited to:

1348 (a) The compensation paid to retailers;

1349 (b) The costs of supplies, materials, tickets, independent  
1350 audit services, independent studies, data transmission,  
1351 advertising, promotion, incentives, public relations,  
1352 communications, security, bonding for retailers, printing,  
1353 distribution of tickets, and reimbursing other governmental  
1354 entities for services provided to the lottery; and

1355 (c) The costs of any other goods and services necessary for  
1356 effectuating the purposes of this chapter act.

1357 Section 20. Section 24.122, Florida Statutes, is amended to  
1358 read:

1359 24.122 Exemption from taxation; state preemption;  
1360 inapplicability of other laws.—

1361 (1) This chapter act shall not be construed to authorize  
1362 any lottery except the lottery operated by the department or the  
1363 manager under ~~pursuant to~~ this chapter act.

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1364 (2) No state or local tax shall be imposed upon any prize  
1365 paid or payable under this chapter ~~act~~ or upon the sale of any  
1366 lottery ticket pursuant to this chapter ~~act~~.

1367 (3) All matters relating to the operation of the state  
1368 lottery are preempted to the state, and no county, municipality,  
1369 or other political subdivision of the state shall enact any  
1370 ordinance relating to the operation of the lottery authorized by  
1371 this chapter ~~act~~. However, this subsection shall not prohibit a  
1372 political subdivision of the state from requiring a retailer to  
1373 obtain an occupational license for any business unrelated to the  
1374 sale of lottery tickets.

1375 (4) Any state or local law providing any penalty,  
1376 disability, restriction, or prohibition for the possession,  
1377 manufacture, transportation, distribution, advertising, or sale  
1378 of any lottery ticket, including chapter 849, shall not apply to  
1379 the tickets of the state lottery operated pursuant to this  
1380 chapter ~~act~~; nor shall any such law apply to the possession of a  
1381 ticket issued by any other government-operated lottery. In  
1382 addition, activities of the department under this chapter ~~act~~  
1383 are exempt from the provisions of:

1384 (a) Chapter 616, relating to public fairs and expositions.

1385 (b) Chapter 946, relating to correctional work programs.

1386 (c) Chapter 282, relating to communications and data  
1387 processing.

1388 (d) Section 110.131, relating to other personal services.

1389 Section 21. Section 24.123, Florida Statutes, is amended to  
1390 read:

1391 24.123 Annual audit of financial records and reports.—

1392 (1) The Legislative Auditing Committee shall contract with

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1393 a certified public accountant licensed pursuant to chapter 473  
1394 for an annual financial audit of the department. The certified  
1395 public accountant shall have no financial interest in any vendor  
1396 or manager with whom the department is under contract. The  
1397 certified public accountant shall present an audit report no  
1398 later than 7 months after the end of the fiscal year and shall  
1399 make recommendations to enhance the earning capability of the  
1400 state lottery or the management agreement and to improve the  
1401 efficiency of department operations. The certified public  
1402 accountant shall also perform a study and evaluation of internal  
1403 accounting controls and shall express an opinion on those  
1404 controls in effect during the audit period. The cost of the  
1405 annual financial audit shall be paid by the department.

1406 (2) The Auditor General may at any time conduct an audit of  
1407 any phase of the operations of the state lottery or the  
1408 management agreement and shall receive a copy of the yearly  
1409 independent financial audit and any security report prepared  
1410 pursuant to s. 24.108.

1411 (3) A copy of any audit performed pursuant to this section  
1412 shall be submitted to the secretary, the Governor, the President  
1413 of the Senate, the Speaker of the House of Representatives, and  
1414 members of the Legislative Auditing Committee.

1415 Section 22. Subsection (1) of section 24.124, Florida  
1416 Statutes, is amended to read:

1417 24.124 Responsibility for ticket accuracy; department,  
1418 retailer, and vendor liability.-

1419 (1) Purchasers of online games tickets shall be responsible  
1420 for verifying the accuracy of their tickets, including the  
1421 number or numbers printed on the tickets. In the event of an

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1422 error, the ticket may be canceled and a replacement ticket  
1423 issued pursuant to rules adopted ~~promulgated~~ by the department  
1424 ~~of the Lottery.~~

1425 Section 23. This act shall take effect January 1, 2011.