



Rep. Dan Brady

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1 AMENDMENT TO HOUSE BILL 3487

2 AMENDMENT NO. _____. Amend House Bill 3487 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Human Services Act is amended
5 by changing Section 10-8 as follows:

6 (20 ILCS 1305/10-8)

7 Sec. 10-8. The Autism Research Checkoff Fund; grants;
8 scientific review committee. The Autism Research Checkoff Fund
9 is created as a special fund in the State treasury. From
10 appropriations to the Department from the Fund, the Department
11 must make grants to public or private entities in Illinois for
12 the purpose of funding research concerning the disorder of
13 autism. For purposes of this Section, the term "research"
14 includes, without limitation, expenditures to develop and
15 advance the understanding, techniques, and modalities
16 effective in the detection, prevention, screening, and

1 treatment of autism and may include clinical trials. No more
2 than 20% of the grant funds may be used for institutional
3 overhead costs, indirect costs, other organizational levies,
4 or costs of community-based support services.

5 Moneys received for the purposes of this Section,
6 including, without limitation, income tax checkoff receipts,
7 special instant scratch-off game receipts, and gifts, grants,
8 and awards from any public or private entity, must be deposited
9 into the Fund. Any interest earned on moneys in the Fund must
10 be deposited into the Fund.

11 Each year, grantees of the grants provided under this
12 Section must submit a written report to the Department that
13 sets forth the types of research that is conducted with the
14 grant moneys and the status of that research.

15 The Department shall promulgate rules for the creation of a
16 scientific review committee to review and assess applications
17 for the grants authorized under this Section. The Committee
18 shall serve without compensation.

19 (Source: P.A. 98-463, eff. 8-16-13.)

20 Section 10. The Illinois Lottery Law is amended by changing
21 Sections 2, 9.1, and 20 and by adding Section 21.10 as follows:

22 (20 ILCS 1605/2) (from Ch. 120, par. 1152)

23 Sec. 2. This Act is enacted to implement and establish
24 within the State a lottery to be conducted by the State through

1 the Department. The entire net proceeds of the Lottery are to
2 be used for the support of the State's Common School Fund,
3 except as provided in subsection (o) of Section 9.1 and
4 Sections 21.5, 21.6, 21.7, 21.8, ~~and 21.9,~~ and 21.10. The
5 General Assembly finds that it is in the public interest for
6 the Department to conduct the functions of the Lottery with the
7 assistance of a private manager under a management agreement
8 overseen by the Department. The Department shall be accountable
9 to the General Assembly and the people of the State through a
10 comprehensive system of regulation, audits, reports, and
11 enduring operational oversight. The Department's ongoing
12 conduct of the Lottery through a management agreement with a
13 private manager shall act to promote and ensure the integrity,
14 security, honesty, and fairness of the Lottery's operation and
15 administration. It is the intent of the General Assembly that
16 the Department shall conduct the Lottery with the assistance of
17 a private manager under a management agreement at all times in
18 a manner consistent with 18 U.S.C. 1307(a)(1), 1307(b)(1),
19 1953(b)(4).

20 (Source: P.A. 98-649, eff. 6-16-14; 99-933, eff. 1-27-17.)

21 (20 ILCS 1605/9.1)

22 Sec. 9.1. Private manager and management agreement.

23 (a) As used in this Section:

24 "Offeror" means a person or group of persons that responds
25 to a request for qualifications under this Section.

1 "Request for qualifications" means all materials and
2 documents prepared by the Department to solicit the following
3 from offerors:

4 (1) Statements of qualifications.

5 (2) Proposals to enter into a management agreement,
6 including the identity of any prospective vendor or vendors
7 that the offeror intends to initially engage to assist the
8 offeror in performing its obligations under the management
9 agreement.

10 "Final offer" means the last proposal submitted by an
11 offeror in response to the request for qualifications,
12 including the identity of any prospective vendor or vendors
13 that the offeror intends to initially engage to assist the
14 offeror in performing its obligations under the management
15 agreement.

16 "Final offeror" means the offeror ultimately selected by
17 the Governor to be the private manager for the Lottery under
18 subsection (h) of this Section.

19 (b) By September 15, 2010, the Governor shall select a
20 private manager for the total management of the Lottery with
21 integrated functions, such as lottery game design, supply of
22 goods and services, and advertising and as specified in this
23 Section.

24 (c) Pursuant to the terms of this subsection, the
25 Department shall endeavor to expeditiously terminate the
26 existing contracts in support of the Lottery in effect on the

1 effective date of this amendatory Act of the 96th General
2 Assembly in connection with the selection of the private
3 manager. As part of its obligation to terminate these contracts
4 and select the private manager, the Department shall establish
5 a mutually agreeable timetable to transfer the functions of
6 existing contractors to the private manager so that existing
7 Lottery operations are not materially diminished or impaired
8 during the transition. To that end, the Department shall do the
9 following:

10 (1) where such contracts contain a provision
11 authorizing termination upon notice, the Department shall
12 provide notice of termination to occur upon the mutually
13 agreed timetable for transfer of functions;

14 (2) upon the expiration of any initial term or renewal
15 term of the current Lottery contracts, the Department shall
16 not renew such contract for a term extending beyond the
17 mutually agreed timetable for transfer of functions; or

18 (3) in the event any current contract provides for
19 termination of that contract upon the implementation of a
20 contract with the private manager, the Department shall
21 perform all necessary actions to terminate the contract on
22 the date that coincides with the mutually agreed timetable
23 for transfer of functions.

24 If the contracts to support the current operation of the
25 Lottery in effect on the effective date of this amendatory Act
26 of the 96th General Assembly are not subject to termination as

1 provided for in this subsection (c), then the Department may
2 include a provision in the contract with the private manager
3 specifying a mutually agreeable methodology for incorporation.

4 (c-5) The Department shall include provisions in the
5 management agreement whereby the private manager shall, for a
6 fee, and pursuant to a contract negotiated with the Department
7 (the "Employee Use Contract"), utilize the services of current
8 Department employees to assist in the administration and
9 operation of the Lottery. The Department shall be the employer
10 of all such bargaining unit employees assigned to perform such
11 work for the private manager, and such employees shall be State
12 employees, as defined by the Personnel Code. Department
13 employees shall operate under the same employment policies,
14 rules, regulations, and procedures, as other employees of the
15 Department. In addition, neither historical representation
16 rights under the Illinois Public Labor Relations Act, nor
17 existing collective bargaining agreements, shall be disturbed
18 by the management agreement with the private manager for the
19 management of the Lottery.

20 (d) The management agreement with the private manager shall
21 include all of the following:

22 (1) A term not to exceed 10 years, including any
23 renewals.

24 (2) A provision specifying that the Department:

25 (A) shall exercise actual control over all
26 significant business decisions;

1 (A-5) has the authority to direct or countermand
2 operating decisions by the private manager at any time;

3 (B) has ready access at any time to information
4 regarding Lottery operations;

5 (C) has the right to demand and receive information
6 from the private manager concerning any aspect of the
7 Lottery operations at any time; and

8 (D) retains ownership of all trade names,
9 trademarks, and intellectual property associated with
10 the Lottery.

11 (3) A provision imposing an affirmative duty on the
12 private manager to provide the Department with material
13 information and with any information the private manager
14 reasonably believes the Department would want to know to
15 enable the Department to conduct the Lottery.

16 (4) A provision requiring the private manager to
17 provide the Department with advance notice of any operating
18 decision that bears significantly on the public interest,
19 including, but not limited to, decisions on the kinds of
20 games to be offered to the public and decisions affecting
21 the relative risk and reward of the games being offered, so
22 the Department has a reasonable opportunity to evaluate and
23 countermand that decision.

24 (5) A provision providing for compensation of the
25 private manager that may consist of, among other things, a
26 fee for services and a performance based bonus as

1 consideration for managing the Lottery, including terms
2 that may provide the private manager with an increase in
3 compensation if Lottery revenues grow by a specified
4 percentage in a given year.

5 (6) (Blank).

6 (7) A provision requiring the deposit of all Lottery
7 proceeds to be deposited into the State Lottery Fund except
8 as otherwise provided in Section 20 of this Act.

9 (8) A provision requiring the private manager to locate
10 its principal office within the State.

11 (8-5) A provision encouraging that at least 20% of the
12 cost of contracts entered into for goods and services by
13 the private manager in connection with its management of
14 the Lottery, other than contracts with sales agents or
15 technical advisors, be awarded to businesses that are a
16 minority owned business, a female owned business, or a
17 business owned by a person with disability, as those terms
18 are defined in the Business Enterprise for Minorities,
19 Females, and Persons with Disabilities Act.

20 (9) A requirement that so long as the private manager
21 complies with all the conditions of the agreement under the
22 oversight of the Department, the private manager shall have
23 the following duties and obligations with respect to the
24 management of the Lottery:

25 (A) The right to use equipment and other assets
26 used in the operation of the Lottery.

1 (B) The rights and obligations under contracts
2 with retailers and vendors.

3 (C) The implementation of a comprehensive security
4 program by the private manager.

5 (D) The implementation of a comprehensive system
6 of internal audits.

7 (E) The implementation of a program by the private
8 manager to curb compulsive gambling by persons playing
9 the Lottery.

10 (F) A system for determining (i) the type of
11 Lottery games, (ii) the method of selecting winning
12 tickets, (iii) the manner of payment of prizes to
13 holders of winning tickets, (iv) the frequency of
14 drawings of winning tickets, (v) the method to be used
15 in selling tickets, (vi) a system for verifying the
16 validity of tickets claimed to be winning tickets,
17 (vii) the basis upon which retailer commissions are
18 established by the manager, and (viii) minimum
19 payouts.

20 (10) A requirement that advertising and promotion must
21 be consistent with Section 7.8a of this Act.

22 (11) A requirement that the private manager market the
23 Lottery to those residents who are new, infrequent, or
24 lapsed players of the Lottery, especially those who are
25 most likely to make regular purchases on the Internet as
26 permitted by law.

1 (12) A code of ethics for the private manager's
2 officers and employees.

3 (13) A requirement that the Department monitor and
4 oversee the private manager's practices and take action
5 that the Department considers appropriate to ensure that
6 the private manager is in compliance with the terms of the
7 management agreement, while allowing the manager, unless
8 specifically prohibited by law or the management
9 agreement, to negotiate and sign its own contracts with
10 vendors.

11 (14) A provision requiring the private manager to
12 periodically file, at least on an annual basis, appropriate
13 financial statements in a form and manner acceptable to the
14 Department.

15 (15) Cash reserves requirements.

16 (16) Procedural requirements for obtaining the prior
17 approval of the Department when a management agreement or
18 an interest in a management agreement is sold, assigned,
19 transferred, or pledged as collateral to secure financing.

20 (17) Grounds for the termination of the management
21 agreement by the Department or the private manager.

22 (18) Procedures for amendment of the agreement.

23 (19) A provision requiring the private manager to
24 engage in an open and competitive bidding process for any
25 procurement having a cost in excess of \$50,000 that is not
26 a part of the private manager's final offer. The process

1 shall favor the selection of a vendor deemed to have
2 submitted a proposal that provides the Lottery with the
3 best overall value. The process shall not be subject to the
4 provisions of the Illinois Procurement Code, unless
5 specifically required by the management agreement.

6 (20) The transition of rights and obligations,
7 including any associated equipment or other assets used in
8 the operation of the Lottery, from the manager to any
9 successor manager of the lottery, including the
10 Department, following the termination of or foreclosure
11 upon the management agreement.

12 (21) Right of use of copyrights, trademarks, and
13 service marks held by the Department in the name of the
14 State. The agreement must provide that any use of them by
15 the manager shall only be for the purpose of fulfilling its
16 obligations under the management agreement during the term
17 of the agreement.

18 (22) The disclosure of any information requested by the
19 Department to enable it to comply with the reporting
20 requirements and information requests provided for under
21 subsection (p) of this Section.

22 (e) Notwithstanding any other law to the contrary, the
23 Department shall select a private manager through a competitive
24 request for qualifications process consistent with Section
25 20-35 of the Illinois Procurement Code, which shall take into
26 account:

1 (1) the offeror's ability to market the Lottery to
2 those residents who are new, infrequent, or lapsed players
3 of the Lottery, especially those who are most likely to
4 make regular purchases on the Internet;

5 (2) the offeror's ability to address the State's
6 concern with the social effects of gambling on those who
7 can least afford to do so;

8 (3) the offeror's ability to provide the most
9 successful management of the Lottery for the benefit of the
10 people of the State based on current and past business
11 practices or plans of the offeror; and

12 (4) the offeror's poor or inadequate past performance
13 in servicing, equipping, operating or managing a lottery on
14 behalf of Illinois, another State or foreign government and
15 attracting persons who are not currently regular players of
16 a lottery.

17 (f) The Department may retain the services of an advisor or
18 advisors with significant experience in financial services or
19 the management, operation, and procurement of goods, services,
20 and equipment for a government-run lottery to assist in the
21 preparation of the terms of the request for qualifications and
22 selection of the private manager. Any prospective advisor
23 seeking to provide services under this subsection (f) shall
24 disclose any material business or financial relationship
25 during the past 3 years with any potential offeror, or with a
26 contractor or subcontractor presently providing goods,

1 services, or equipment to the Department to support the
2 Lottery. The Department shall evaluate the material business or
3 financial relationship of each prospective advisor. The
4 Department shall not select any prospective advisor with a
5 substantial business or financial relationship that the
6 Department deems to impair the objectivity of the services to
7 be provided by the prospective advisor. During the course of
8 the advisor's engagement by the Department, and for a period of
9 one year thereafter, the advisor shall not enter into any
10 business or financial relationship with any offeror or any
11 vendor identified to assist an offeror in performing its
12 obligations under the management agreement. Any advisor
13 retained by the Department shall be disqualified from being an
14 offeror. The Department shall not include terms in the request
15 for qualifications that provide a material advantage whether
16 directly or indirectly to any potential offeror, or any
17 contractor or subcontractor presently providing goods,
18 services, or equipment to the Department to support the
19 Lottery, including terms contained in previous responses to
20 requests for proposals or qualifications submitted to
21 Illinois, another State or foreign government when those terms
22 are uniquely associated with a particular potential offeror,
23 contractor, or subcontractor. The request for proposals
24 offered by the Department on December 22, 2008 as
25 "LOT08GAMESYS" and reference number "22016176" is declared
26 void.

1 (g) The Department shall select at least 2 offerors as
2 finalists to potentially serve as the private manager no later
3 than August 9, 2010. Upon making preliminary selections, the
4 Department shall schedule a public hearing on the finalists'
5 proposals and provide public notice of the hearing at least 7
6 calendar days before the hearing. The notice must include all
7 of the following:

8 (1) The date, time, and place of the hearing.

9 (2) The subject matter of the hearing.

10 (3) A brief description of the management agreement to
11 be awarded.

12 (4) The identity of the offerors that have been
13 selected as finalists to serve as the private manager.

14 (5) The address and telephone number of the Department.

15 (h) At the public hearing, the Department shall (i) provide
16 sufficient time for each finalist to present and explain its
17 proposal to the Department and the Governor or the Governor's
18 designee, including an opportunity to respond to questions
19 posed by the Department, Governor, or designee and (ii) allow
20 the public and non-selected offerors to comment on the
21 presentations. The Governor or a designee shall attend the
22 public hearing. After the public hearing, the Department shall
23 have 14 calendar days to recommend to the Governor whether a
24 management agreement should be entered into with a particular
25 finalist. After reviewing the Department's recommendation, the
26 Governor may accept or reject the Department's recommendation,

1 and shall select a final offeror as the private manager by
2 publication of a notice in the Illinois Procurement Bulletin on
3 or before September 15, 2010. The Governor shall include in the
4 notice a detailed explanation and the reasons why the final
5 offeror is superior to other offerors and will provide
6 management services in a manner that best achieves the
7 objectives of this Section. The Governor shall also sign the
8 management agreement with the private manager.

9 (i) Any action to contest the private manager selected by
10 the Governor under this Section must be brought within 7
11 calendar days after the publication of the notice of the
12 designation of the private manager as provided in subsection
13 (h) of this Section.

14 (j) The Lottery shall remain, for so long as a private
15 manager manages the Lottery in accordance with provisions of
16 this Act, a Lottery conducted by the State, and the State shall
17 not be authorized to sell or transfer the Lottery to a third
18 party.

19 (k) Any tangible personal property used exclusively in
20 connection with the lottery that is owned by the Department and
21 leased to the private manager shall be owned by the Department
22 in the name of the State and shall be considered to be public
23 property devoted to an essential public and governmental
24 function.

25 (l) The Department may exercise any of its powers under
26 this Section or any other law as necessary or desirable for the

1 execution of the Department's powers under this Section.

2 (m) Neither this Section nor any management agreement
3 entered into under this Section prohibits the General Assembly
4 from authorizing forms of gambling that are not in direct
5 competition with the Lottery.

6 (n) The private manager shall be subject to a complete
7 investigation in the third, seventh, and tenth years of the
8 agreement (if the agreement is for a 10-year term) by the
9 Department in cooperation with the Auditor General to determine
10 whether the private manager has complied with this Section and
11 the management agreement. The private manager shall bear the
12 cost of an investigation or reinvestigation of the private
13 manager under this subsection.

14 (o) The powers conferred by this Section are in addition
15 and supplemental to the powers conferred by any other law. If
16 any other law or rule is inconsistent with this Section,
17 including, but not limited to, provisions of the Illinois
18 Procurement Code, then this Section controls as to any
19 management agreement entered into under this Section. This
20 Section and any rules adopted under this Section contain full
21 and complete authority for a management agreement between the
22 Department and a private manager. No law, procedure,
23 proceeding, publication, notice, consent, approval, order, or
24 act by the Department or any other officer, Department, agency,
25 or instrumentality of the State or any political subdivision is
26 required for the Department to enter into a management

1 agreement under this Section. This Section contains full and
2 complete authority for the Department to approve any contracts
3 entered into by a private manager with a vendor providing
4 goods, services, or both goods and services to the private
5 manager under the terms of the management agreement, including
6 subcontractors of such vendors.

7 Upon receipt of a written request from the Chief
8 Procurement Officer, the Department shall provide to the Chief
9 Procurement Officer a complete and un-redacted copy of the
10 management agreement or any contract that is subject to the
11 Department's approval authority under this subsection (o). The
12 Department shall provide a copy of the agreement or contract to
13 the Chief Procurement Officer in the time specified by the
14 Chief Procurement Officer in his or her written request, but no
15 later than 5 business days after the request is received by the
16 Department. The Chief Procurement Officer must retain any
17 portions of the management agreement or of any contract
18 designated by the Department as confidential, proprietary, or
19 trade secret information in complete confidence pursuant to
20 subsection (g) of Section 7 of the Freedom of Information Act.
21 The Department shall also provide the Chief Procurement Officer
22 with reasonable advance written notice of any contract that is
23 pending Department approval.

24 Notwithstanding any other provision of this Section to the
25 contrary, the Chief Procurement Officer shall adopt
26 administrative rules, including emergency rules, to establish

1 a procurement process to select a successor private manager if
2 a private management agreement has been terminated. The
3 selection process shall at a minimum take into account the
4 criteria set forth in items (1) through (4) of subsection (e)
5 of this Section and may include provisions consistent with
6 subsections (f), (g), (h), and (i) of this Section. The Chief
7 Procurement Officer shall also implement and administer the
8 adopted selection process upon the termination of a private
9 management agreement. The Department, after the Chief
10 Procurement Officer certifies that the procurement process has
11 been followed in accordance with the rules adopted under this
12 subsection (o), shall select a final offeror as the private
13 manager and sign the management agreement with the private
14 manager.

15 Except as provided in Sections 21.5, 21.6, 21.7, 21.8, ~~and~~
16 21.9, and 21.10, the Department shall distribute all proceeds
17 of lottery tickets and shares sold in the following priority
18 and manner:

19 (1) The payment of prizes and retailer bonuses.

20 (2) The payment of costs incurred in the operation and
21 administration of the Lottery, including the payment of
22 sums due to the private manager under the management
23 agreement with the Department.

24 (3) On the last day of each month or as soon thereafter
25 as possible, the State Comptroller shall direct and the
26 State Treasurer shall transfer from the State Lottery Fund

1 to the Common School Fund an amount that is equal to the
2 proceeds transferred in the corresponding month of fiscal
3 year 2009, as adjusted for inflation, to the Common School
4 Fund.

5 (4) On or before the last day of each fiscal year,
6 deposit any remaining proceeds, subject to payments under
7 items (1), (2), and (3) into the Capital Projects Fund each
8 fiscal year.

9 (p) The Department shall be subject to the following
10 reporting and information request requirements:

11 (1) the Department shall submit written quarterly
12 reports to the Governor and the General Assembly on the
13 activities and actions of the private manager selected
14 under this Section;

15 (2) upon request of the Chief Procurement Officer, the
16 Department shall promptly produce information related to
17 the procurement activities of the Department and the
18 private manager requested by the Chief Procurement
19 Officer; the Chief Procurement Officer must retain
20 confidential, proprietary, or trade secret information
21 designated by the Department in complete confidence
22 pursuant to subsection (g) of Section 7 of the Freedom of
23 Information Act; and

24 (3) at least 30 days prior to the beginning of the
25 Department's fiscal year, the Department shall prepare an
26 annual written report on the activities of the private

1 manager selected under this Section and deliver that report
2 to the Governor and General Assembly.

3 (Source: P.A. 98-463, eff. 8-16-13; 98-649, eff. 6-16-14;
4 99-933, eff. 1-27-17.)

5 (20 ILCS 1605/20) (from Ch. 120, par. 1170)
6 Sec. 20. State Lottery Fund.

7 (a) There is created in the State Treasury a special fund
8 to be known as the "State Lottery Fund". Such fund shall
9 consist of all revenues received from (1) the sale of lottery
10 tickets or shares, (net of commissions, fees representing those
11 expenses that are directly proportionate to the sale of tickets
12 or shares at the agent location, and prizes of less than \$600
13 which have been validly paid at the agent level), (2)
14 application fees, and (3) all other sources including moneys
15 credited or transferred thereto from any other fund or source
16 pursuant to law. Interest earnings of the State Lottery Fund
17 shall be credited to the Common School Fund.

18 (b) The receipt and distribution of moneys under Section
19 21.5 of this Act shall be in accordance with Section 21.5.

20 (c) The receipt and distribution of moneys under Section
21 21.6 of this Act shall be in accordance with Section 21.6.

22 (d) The receipt and distribution of moneys under Section
23 21.7 of this Act shall be in accordance with Section 21.7.

24 (e) The receipt and distribution of moneys under Section
25 21.8 of this Act shall be in accordance with Section 21.8.

1 (f) The receipt and distribution of moneys under Section
2 21.9 of this Act shall be in accordance with Section 21.9.

3 (g) The receipt and distribution of moneys under Section
4 21.10 of this Act shall be in accordance with Section 21.10.

5 (Source: P.A. 98-649, eff. 6-16-14.)

6 (20 ILCS 1605/21.10 new)

7 Sec. 21.10. Autism scratch-off game.

8 (a) The Department shall offer a special instant
9 scratch-off game for the benefit of research pertaining to
10 autism. The game shall commence on January 1, 2018 or as soon
11 thereafter, in the discretion of the Director, as is reasonably
12 practical. The operation of the game shall be governed by this
13 Act and any rules adopted by the Department. If any provision
14 of this Section is inconsistent with any other provision of
15 this Act, then this Section governs.

16 (b) The net revenue from the autism scratch-off game
17 created under this Section shall be deposited into the Autism
18 Research Checkoff Fund for the purposes described in Section
19 10-8 of the Department of Human Services Act.

20 (c) The Department may adopt any rules necessary to
21 implement and administer the provisions of this Section.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."