



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

### SB2955

Introduced 12/15/2021, by Sen. Laura Ellman

#### SYNOPSIS AS INTRODUCED:

20 ILCS 1605/2 from Ch. 120, par. 1152  
20 ILCS 1605/9.1  
20 ILCS 1605/9.2 new

Amends the Illinois Lottery Law. Provides that beginning July 1, 2022, the Department of the Lottery shall distribute proceeds from certain lottery tickets and shares sold in the specified priority and manner, beginning with the payment of prizes and retailer bonuses. Provides that as a result of findings by the Office of the Auditor General, annual net lottery proceeds from fiscal years 2017 through 2021 from the State Lottery Fund to the Common School Fund were made in excess of proceeds available to transfer, resulting in required transfers to the Capital Projects Fund not being made. Provides that to reconcile the amounts owed, certain one-time transfers to the appropriate funds shall be made. Makes conforming changes in the Act. Effective immediately.

LRB102 19299 SMS 28065 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Lottery Law is amended by changing  
5 Sections 2 and 9.1 and by adding Section 9.2 as follows:

6 (20 ILCS 1605/2) (from Ch. 120, par. 1152)

7 Sec. 2. This Act is enacted to implement and establish  
8 within the State a lottery to be conducted by the State through  
9 the Department. The entire net proceeds of the Lottery are to  
10 be used for the support of the State's Common School Fund,  
11 except as otherwise provided in this Act ~~subsection (e) of~~  
12 ~~Section 9.1 and Sections 21.5, 21.6, 21.7, 21.8, 21.9, 21.10,~~  
13 ~~and 21.11, 21.12, and 21.13.~~ The General Assembly finds that  
14 it is in the public interest for the Department to conduct the  
15 functions of the Lottery with the assistance of a private  
16 manager under a management agreement overseen by the  
17 Department. The Department shall be accountable to the General  
18 Assembly and the people of the State through a comprehensive  
19 system of regulation, audits, reports, and enduring  
20 operational oversight. The Department's ongoing conduct of the  
21 Lottery through a management agreement with a private manager  
22 shall act to promote and ensure the integrity, security,  
23 honesty, and fairness of the Lottery's operation and

1 administration. It is the intent of the General Assembly that  
2 the Department shall conduct the Lottery with the assistance  
3 of a private manager under a management agreement at all times  
4 in a manner consistent with 18 U.S.C. 1307(a)(1), 1307(b)(1),  
5 1953(b)(4).

6 Beginning with Fiscal Year 2018 and every year thereafter,  
7 any moneys transferred from the State Lottery Fund to the  
8 Common School Fund shall be supplemental to, and not in lieu  
9 of, any other money due to be transferred to the Common School  
10 Fund by law or appropriation.

11 (Source: P.A. 100-466, eff. 6-1-18; 100-647, eff. 7-30-18;  
12 100-1068, eff. 8-24-18; 101-81, eff. 7-12-19; 101-561, eff.  
13 8-23-19; revised 10-21-19.)

14 (20 ILCS 1605/9.1)

15 Sec. 9.1. Private manager and management agreement.

16 (a) As used in this Section:

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

19 "Request for qualifications" means all materials and  
20 documents prepared by the Department to solicit the following  
21 from offerors:

22 (1) Statements of qualifications.

23 (2) Proposals to enter into a management agreement,  
24 including the identity of any prospective vendor or  
25 vendors that the offeror intends to initially engage to

1 assist the offeror in performing its obligations under the  
2 management agreement.

3 "Final offer" means the last proposal submitted by an  
4 offeror in response to the request for qualifications,  
5 including the identity of any prospective vendor or vendors  
6 that the offeror intends to initially engage to assist the  
7 offeror in performing its obligations under the management  
8 agreement.

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

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

17 (c) Pursuant to the terms of this subsection, the  
18 Department shall endeavor to expeditiously terminate the  
19 existing contracts in support of the Lottery in effect on July  
20 13, 2009 (the effective date of Public Act 96-37) ~~this~~  
21 ~~amendatory Act of the 96th General Assembly~~ in connection with  
22 the selection of the private manager. As part of its  
23 obligation to terminate these contracts and select the private  
24 manager, the Department shall establish a mutually agreeable  
25 timetable to transfer the functions of existing contractors to  
26 the private manager so that existing Lottery operations are

1 not materially diminished or impaired during the transition.

2 To that end, the Department shall do the following:

3 (1) where such contracts contain a provision  
4 authorizing termination upon notice, the Department shall  
5 provide notice of termination to occur upon the mutually  
6 agreed timetable for transfer of functions;

7 (2) upon the expiration of any initial term or renewal  
8 term of the current Lottery contracts, the Department  
9 shall not renew such contract for a term extending beyond  
10 the mutually agreed timetable for transfer of functions;  
11 or

12 (3) in the event any current contract provides for  
13 termination of that contract upon the implementation of a  
14 contract with the private manager, the Department shall  
15 perform all necessary actions to terminate the contract on  
16 the date that coincides with the mutually agreed timetable  
17 for transfer of functions.

18 If the contracts to support the current operation of the  
19 Lottery in effect on July 13, 2009 (the effective date of  
20 Public Act 96-34) ~~this amendatory Act of the 96th General~~  
21 ~~Assembly~~ are not subject to termination as provided for in  
22 this subsection (c), then the Department may include a  
23 provision in the contract with the private manager specifying  
24 a mutually agreeable methodology for incorporation.

25 (c-5) The Department shall include provisions in the  
26 management agreement whereby the private manager shall, for a

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

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

17 (1) A term not to exceed 10 years, including any  
18 renewals.

19 (2) A provision specifying that the Department:

20 (A) shall exercise actual control over all  
21 significant business decisions;

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

25 (B) has ready access at any time to information  
26 regarding Lottery operations;

1           (C) has the right to demand and receive  
2 information from the private manager concerning any  
3 aspect of the Lottery operations at any time; and

4           (D) retains ownership of all trade names,  
5 trademarks, and intellectual property associated with  
6 the Lottery.

7           (3) A provision imposing an affirmative duty on the  
8 private manager to provide the Department with material  
9 information and with any information the private manager  
10 reasonably believes the Department would want to know to  
11 enable the Department to conduct the Lottery.

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

20           (5) A provision providing for compensation of the  
21 private manager that may consist of, among other things, a  
22 fee for services and a performance based bonus as  
23 consideration for managing the Lottery, including terms  
24 that may provide the private manager with an increase in  
25 compensation if Lottery revenues grow by a specified  
26 percentage in a given year.

1 (6) (Blank).

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

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

7 (8-5) A provision encouraging that at least 20% of the  
8 cost of contracts entered into for goods and services by  
9 the private manager in connection with its management of  
10 the Lottery, other than contracts with sales agents or  
11 technical advisors, be awarded to businesses that are a  
12 minority-owned business, a women-owned business, or a  
13 business owned by a person with disability, as those terms  
14 are defined in the Business Enterprise for Minorities,  
15 Women, and Persons with Disabilities Act.

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

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

23 (B) The rights and obligations under contracts  
24 with retailers and vendors.

25 (C) The implementation of a comprehensive security  
26 program by the private manager.



1 (D) The implementation of a comprehensive system  
2 of internal audits.

3 (E) The implementation of a program by the private  
4 manager to curb compulsive gambling by persons playing  
5 the Lottery.

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

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

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

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

25 (13) A requirement that the Department monitor and  
26 oversee the private manager's practices and take action

1           that the Department considers appropriate to ensure that  
2           the private manager is in compliance with the terms of the  
3           management agreement, while allowing the manager, unless  
4           specifically prohibited by law or the management  
5           agreement, to negotiate and sign its own contracts with  
6           vendors.

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

11          (15) Cash reserves requirements.

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

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

18          (18) Procedures for amendment of the agreement.

19          (19) A provision requiring the private manager to  
20          engage in an open and competitive bidding process for any  
21          procurement having a cost in excess of \$50,000 that is not  
22          a part of the private manager's final offer. The process  
23          shall favor the selection of a vendor deemed to have  
24          submitted a proposal that provides the Lottery with the  
25          best overall value. The process shall not be subject to  
26          the provisions of the Illinois Procurement Code, unless

1 specifically required by the management agreement.

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

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

14 (22) The disclosure of any information requested by  
15 the Department to enable it to comply with the reporting  
16 requirements and information requests provided for under  
17 subsection (p) of this Section.

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

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

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

4           (3) the offeror's ability to provide the most  
5 successful management of the Lottery for the benefit of  
6 the people of the State based on current and past business  
7 practices or plans of the offeror; and

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

13           (f) The Department may retain the services of an advisor  
14 or advisors with significant experience in financial services  
15 or the management, operation, and procurement of goods,  
16 services, and equipment for a government-run lottery to assist  
17 in the preparation of the terms of the request for  
18 qualifications and selection of the private manager. Any  
19 prospective advisor seeking to provide services under this  
20 subsection (f) shall disclose any material business or  
21 financial relationship during the past 3 years with any  
22 potential offeror, or with a contractor or subcontractor  
23 presently providing goods, services, or equipment to the  
24 Department to support the Lottery. The Department shall  
25 evaluate the material business or financial relationship of  
26 each prospective advisor. The Department shall not select any

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

23 (g) The Department shall select at least 2 offerors as  
24 finalists to potentially serve as the private manager no later  
25 than August 9, 2010. Upon making preliminary selections, the  
26 Department shall schedule a public hearing on the finalists'

1 proposals and provide public notice of the hearing at least 7  
2 calendar days before the hearing. The notice must include all  
3 of the following:

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

5 (2) The subject matter of the hearing.

6 (3) A brief description of the management agreement to  
7 be awarded.

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

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

12 (h) At the public hearing, the Department shall (i)  
13 provide sufficient time for each finalist to present and  
14 explain its proposal to the Department and the Governor or the  
15 Governor's designee, including an opportunity to respond to  
16 questions posed by the Department, Governor, or designee and  
17 (ii) allow the public and non-selected offerors to comment on  
18 the presentations. The Governor or a designee shall attend the  
19 public hearing. After the public hearing, the Department shall  
20 have 14 calendar days to recommend to the Governor whether a  
21 management agreement should be entered into with a particular  
22 finalist. After reviewing the Department's recommendation, the  
23 Governor may accept or reject the Department's recommendation,  
24 and shall select a final offeror as the private manager by  
25 publication of a notice in the Illinois Procurement Bulletin  
26 on or before September 15, 2010. The Governor shall include in

1 the notice a detailed explanation and the reasons why the  
2 final offeror is superior to other offerors and will provide  
3 management services in a manner that best achieves the  
4 objectives of this Section. The Governor shall also sign the  
5 management agreement with the private manager.

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

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

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

22 (l) The Department may exercise any of its powers under  
23 this Section or any other law as necessary or desirable for the  
24 execution of the Department's powers under this Section.

25 (m) Neither this Section nor any management agreement  
26 entered into under this Section prohibits the General Assembly

1 from authorizing forms of gambling that are not in direct  
2 competition with the Lottery. The forms of gambling authorized  
3 by Public Act 101-31 ~~this amendatory Act of the 101st General~~  
4 ~~Assembly~~ constitute authorized forms of gambling that are not  
5 in direct 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  
10 determine whether the private manager has complied with this  
11 Section and the management agreement. The private manager  
12 shall bear the cost of an investigation or reinvestigation of  
13 the private 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,  
25 agency, or instrumentality of the State or any political  
26 subdivision is required for the Department to enter into a



1 management agreement under this Section. This Section contains  
2 full and complete authority for the Department to approve any  
3 contracts entered into by a private manager with a vendor  
4 providing goods, services, or both goods and services to the  
5 private manager under the terms of the management agreement,  
6 including 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  
13 to the Chief Procurement Officer in the time specified by the  
14 Chief Procurement Officer in his or her written request, but  
15 no later than 5 business days after the request is received by  
16 the 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  
22 Officer with reasonable advance written notice of any contract  
23 that is 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,  
16 21.9, 21.10, 21.11, 21.12, and 21.13 of this Act and Section  
17 25-70 of the Sports Wagering Act, through June 30, 2022, the  
18 Department shall distribute all proceeds of lottery tickets  
19 and shares sold in the following priority and manner:

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

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

25 (3) On the last day of each month or as soon thereafter  
26 as possible, the State Comptroller shall direct and the

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

6 (4) On or before September 30 of each fiscal year,  
7 deposit any estimated remaining proceeds from the prior  
8 fiscal year, subject to payments under items (1), (2), and  
9 (3), into the Capital Projects Fund. Beginning in fiscal  
10 year 2019, the amount deposited shall be increased or  
11 decreased each year by the amount the estimated payment  
12 differs from the amount determined from each year-end  
13 financial audit. Only remaining net deficits from prior  
14 fiscal years may reduce the requirement to deposit these  
15 funds, as determined by the annual financial audit.

16 Beginning July 1, 2022, the Department shall distribute  
17 all proceeds of lottery tickets and shares sold in the manner  
18 and priority described in Section 9.2 of this Act.

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

21 (1) the Department shall submit written quarterly  
22 reports to the Governor and the General Assembly on the  
23 activities and actions of the private manager selected  
24 under this Section;

25 (2) upon request of the Chief Procurement Officer, the  
26 Department shall promptly produce information related to

1 the procurement activities of the Department and the  
2 private manager requested by the Chief Procurement  
3 Officer; the Chief Procurement Officer must retain  
4 confidential, proprietary, or trade secret information  
5 designated by the Department in complete confidence  
6 pursuant to subsection (g) of Section 7 of the Freedom of  
7 Information Act; and

8 (3) at least 30 days prior to the beginning of the  
9 Department's fiscal year, the Department shall prepare an  
10 annual written report on the activities of the private  
11 manager selected under this Section and deliver that  
12 report to the Governor and General Assembly.

13 (Source: P.A. 100-391, eff. 8-25-17; 100-587, eff. 6-4-18;  
14 100-647, eff. 7-30-18; 100-1068, eff. 8-24-18; 101-31, eff.  
15 6-28-19; 101-81, eff. 7-12-19; 101-561, eff. 8-23-19; revised  
16 10-21-19.)

17 (20 ILCS 1605/9.2 new)

18 Sec. 9.2. Expenditure and distribution of lottery  
19 proceeds.

20 (a) Beginning July 1, 2022, except as provided in Sections  
21 21.5, 21.6, 21.7, 21.8, 21.9, 21.10, 21.11, 21.12, and 21.13  
22 of this Act and Section 25-70 of the Sports Wagering Act, the  
23 Department shall distribute all proceeds of lottery tickets  
24 and shares sold in the following priority and manner:

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

1           (2) The payment of costs incurred in the operation and  
2           administration of the Lottery, including the payment of  
3           sums due to the private manager under the management  
4           agreement with the Department and including costs of  
5           administering the Lottery sports wagering program pursuant  
6           to Section 25-70 of the Sports Wagering Act.

7           (3) On the last day of each month or as soon thereafter  
8           as possible, the State Comptroller shall direct and the  
9           State Treasurer shall transfer from the State Lottery Fund  
10           to the Common School Fund the Department's estimate of net  
11           lottery proceeds.

12           (4) If an amount in excess of the annual net lottery  
13           proceeds is transferred for a fiscal year, then the  
14           Department shall offset the monthly transfers of estimated  
15           net lottery proceeds during the following fiscal year by  
16           that excess amount. If an amount less than the annual net  
17           lottery proceeds is transferred for a fiscal year, then  
18           after the related annual fiscal year audit is completed  
19           following such fiscal year, the Department shall direct  
20           the deposit of any remaining annual net lottery proceeds  
21           from such fiscal year, subject to payments under  
22           paragraphs (1) and (2), into the Common School Fund as  
23           soon thereafter as possible.

24           (b) The net lottery proceeds shall be determined by  
25           deducting from total lottery proceeds the expenditures  
26           required by paragraphs (1) and (2) of subsection (a). The

1 annual lottery proceeds and annual net lottery proceeds shall  
2 be determined according to generally accepted accounting  
3 principles for governmental entities and verified by an annual  
4 fiscal year audit.

5 (c) The Office of the Auditor General concluded in the  
6 Department's annual fiscal year audits for Fiscal Year 2017,  
7 Fiscal Year 2018, Fiscal Year 2019, Fiscal Year 2020, and  
8 Fiscal Year 2021 that annual net lottery proceeds from the  
9 State Lottery Fund to the Common School Fund exceeded the  
10 annual net lottery proceeds available to transfer as described  
11 in subsection (b). The excess transfers to the Common School  
12 Fund during those fiscal years resulted in transfers of annual  
13 net lottery proceeds to the Capital Projects Fund in an equal  
14 amount as required by paragraph (4) of subsection (o) of  
15 Section 9.1 not being sent. The Department had no statutory  
16 authority to offset future transfers as described in paragraph  
17 (4) of subsection (a) of this Section during Fiscal Year 2017,  
18 Fiscal Year 2018, Fiscal Year 2019, Fiscal Year 2020, and  
19 Fiscal Year 2021 to reconcile the discrepancies. The following  
20 are one-time reconciliations of the outstanding amounts in  
21 question:

22 (1) All cash transfers to the Common School Fund for  
23 all prior fiscal years, up to and including Fiscal Year  
24 2022, are hereby affirmed as lawful transfers of net  
25 lottery proceeds. The transfers were used for the  
26 authorized purposes for which the Common School Fund was

1 created, and the State Lottery Fund shall have no claim  
2 against any moneys in the Common School Fund except as  
3 described in paragraph (3).

4 (2) All cash transfers to the Capital Projects Fund  
5 for all prior fiscal years, up to and including Fiscal  
6 Year 2022, are hereby affirmed as lawful transfers of the  
7 remaining net lottery proceeds after transfers to the  
8 Common School Fund and are hereby declared sufficient to  
9 fulfill the lawful obligations to make such transfers for  
10 the entire period. The transfers were sufficient for the  
11 authorized purposes for which the Capital Projects Fund  
12 was created, and the Capital Projects Fund shall have no  
13 claim against any moneys in the State Lottery Fund, nor  
14 any right to receive an adjustment or increase to future  
15 transfers from the State Lottery Fund, for any amounts in  
16 controversy from years prior to Fiscal Year 2022. The  
17 State Lottery Fund shall have no legal obligation to make  
18 any additional transfers for such prior years.

19 (3) The resulting balance owed to the State Lottery  
20 Fund due to excess transfers being made to the Common  
21 School Fund shall be reconciled by the Department over a  
22 period and an amount agreed upon between the Department  
23 and the Governor's Office of Management and Budget by  
24 offsetting monthly transfers of estimated net lottery  
25 proceeds to the Common School Fund but recording the  
26 transfer on an accrual basis in accordance with generally

1       accepted accounting principles for a governmental entity  
2       as if the transfer had occurred in the fiscal year.

3       Section 99. Effective date. This Act takes effect upon  
4       becoming law.