Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Sixth Special Session
2010

CHAPTER 4

SENATE BILL 1003

AN ACT

AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 5.1; RELATING TO STATE FINANCIAL OBLIGATIONS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 5, Arizona Revised Statutes, is amended by adding chapter 5.1, to read:

CHAPTER 5.1

STATE LOTTERY REVENUE BONDS

ARTICLE 1. REVENUE BONDS

5-531. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOND RELATED EXPENSES" MEANS ANY EXPENSES INCURRED BY THE DIRECTOR TO ISSUE AND ADMINISTER THE BONDS, INCLUDING UNDERWRITING FEES AND COSTS, TRUSTEE FEES, FINANCIAL CONSULTANT FEES, PRINTING AND ADVERTISING COSTS, PAYING AGENT FEES, TRANSFER AGENT FEES, LEGAL, ACCOUNTING, FEASIBILITY CONSULTANT AND OTHER PROFESSIONAL FEES AND EXPENSES, BOND INSURANCE OR OTHER CREDIT ENHANCEMENTS OR LIQUIDITY FACILITIES, ATTORNEY AND ACCOUNTING FEES AND EXPENSES RELATED TO CREDIT ENHANCEMENT, BOND INSURANCE OR LIQUIDITY ENHANCEMENT, REMARKETING FEES, RATING AGENCY FEES AND COSTS, TRAVEL AND TELECOMMUNICATIONS EXPENSES AND ALL OTHER FEES CONSIDERED NECESSARY BY THE DIRECTOR IN ORDER TO MARKET AND ADMINISTER THE BONDS.

2. "BOND RELATED OBLIGATIONS" MEANS ANY AGREEMENT OR CONTRACTUAL RELATIONSHIP BETWEEN THE DIRECTOR AND ANY BANK, TRUST COMPANY, INSURANCE COMPANY, SURETY BONDING COMPANY, PENSION FUND OR OTHER FINANCIAL INSTITUTION PROVIDING INCREASED CREDIT ON, OR SECURITY FOR, THE BONDS OR LIQUIDITY FOR SECONDARY MARKET TRANSACTIONS AND ANY AGREEMENT TO FUND OR REPLENISH RESERVES FOR THE BONDS.

3. "BONDS" MEANS ANY BONDS ISSUED PURSUANT TO THIS ARTICLE.

4. "DEPARTMENT" MEANS THE DEPARTMENT OF ADMINISTRATION.

5. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION.

5-532. Authorization of state lottery revenue bonds

A. THE DIRECTOR SHALL ISSUE STATE LOTTERY REVENUE BONDS PURSUANT TO THIS ARTICLE IN AN AMOUNT SUFFICIENT TO PROVIDE MONIES TO:

1. DEPOSIT IN THE STATE GENERAL FUND BY DECEMBER 31, 2010 AN AMOUNT OF NOT MORE THAN FOUR HUNDRED FIFTY MILLION DOLLARS.

2. PAY BOND RELATED EXPENSES.

3. PAY FEES, CHARGES AND EXPENSES INCURRED WITH RESPECT TO BOND RELATED OBLIGATIONS.

4. FULLY OR PARTIALLY FUND ANY RESERVES OR SINKING ACCOUNTS FOR DEBT SERVICE ON THE BONDS ESTABLISHED BY THE BOND DOCUMENTS.

B. THE DIRECTOR SHALL AUTHORIZE THE BONDS BY AN APPROPRIATE DOCUMENT SIGNED BY THE DIRECTOR. THE BOND AUTHORIZING DOCUMENT SHALL PRESCRIBE:

1. THE FIXED OR VARIABLE RATE OR RATES OF INTEREST, THE DATE OR DATES ON WHICH INTEREST IS PAYABLE AND THE DENOMINATIONS OF THE BONDS.

2. THE DATE OR DATES OF THE BONDS AND MATURITY, WITHIN TWENTY YEARS AFTER THE DATE OF ISSUANCE.

3. THE FORM OF THE BONDS.

4. THE MANNER OF EXECUTING THE BONDS.

5. THE MEDIUM AND PLACE OF PAYMENT.

6. THE TERMS OF REDEMPTION, WHICH MAY PROVIDE FOR A PREMIUM FOR EARLY REDEMPTION.

C. THE BONDS ISSUED PURSUANT TO THIS ARTICLE SHALL BE KNOWN AS STATE LOTTERY REVENUE BONDS.

D. THE DIRECTOR SHALL NOTIFY THE JOINT LEGISLATIVE BUDGET COMMITTEE OF THE BOND'S PROPOSED TERMS AND CONDITIONS AT LEAST TEN DAYS BEFORE AN INITIAL PUBLIC OFFERING DOCUMENT IS RELEASED.

5-533. Issuance and sale of bonds; state lottery revenue bond proceeds fund; use of bond proceeds

A. THE STATE LOTTERY REVENUE BONDS SHALL BE SOLD AT PUBLIC OR PRIVATE SALE AT THE PRICE AND ON THE TERMS PRESCRIBED BY THE DIRECTOR AT, ABOVE OR BELOW PAR. THE FIRST FOUR HUNDRED FIFTY MILLION DOLLARS OF PROCEEDS RECEIVED FROM THE ISSUANCE OF STATE LOTTERY REVENUE BONDS SHALL BE DEPOSITED IN THE STATE GENERAL FUND.

B. THE STATE LOTTERY REVENUE BOND PROCEEDS FUND IS ESTABLISHED. EXCEPT AS PROVIDED IN SUBSECTION A, THE FUND SHALL CONSIST OF THE NET PROCEEDS RECEIVED FROM THE SALE OF ANY STATE LOTTERY REVENUE BONDS ISSUED BY THE DIRECTOR PURSUANT TO THIS ARTICLE. THE DEPARTMENT SHALL ADMINISTER THE FUND.

C. THE DIRECTOR MAY USE MONIES IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND ONLY FOR THE PURPOSES PROVIDED IN SECTION 5-532, SUBSECTION A, PARAGRAPHS 2, 3 AND 4. THE MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS.

5-534. State lottery revenue bond debt service fund

A. THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND IS ESTABLISHED. THE FUND SHALL CONSIST OF MONIES TRANSFERRED PURSUANT TO LAW. THE DEPARTMENT SHALL ADMINISTER AND ACCOUNT FOR THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND.

B. IF THE DIRECTOR ISSUES STATE LOTTERY REVENUE BONDS:

1. AMOUNTS DISTRIBUTABLE TO THE STATE GENERAL FUND FROM THE STATE LOTTERY FUND PURSUANT TO SECTION 5-522 SHALL BE TRANSFERRED FIRST TO THE STATE LOTTERY BOND DEBT SERVICE FUND UNTIL THE STATE LOTTERY BOND DEBT SERVICE FUND CONTAINS MONIES SUFFICIENT TO MEET ALL REQUIREMENTS FOR THE CURRENT PERIOD AS REQUIRED BY THE BOND DOCUMENTS AND, AFTER THE REQUIREMENTS FOR THE CURRENT PERIOD AS REQUIRED BY THE BOND DOCUMENTS HAVE BEEN SATISFIED, SHALL BE TRANSFERRED TO THE STATE GENERAL FUND.

2. AFTER PAYMENT OF THE STATE LOTTERY OPERATING EXPENSES, AMOUNTS DISTRIBUTABLE FROM THE STATE LOTTERY FUND PURSUANT TO SECTION 5-572 SHALL BE TRANSFERRED FIRST TO THE STATE LOTTERY BOND DEBT SERVICE FUND UNTIL THE STATE LOTTERY BOND DEBT SERVICE FUND CONTAINS MONIES SUFFICIENT TO MEET ALL REQUIREMENTS FOR THE CURRENT PERIOD AS REQUIRED BY THE BOND DOCUMENTS AND, AFTER THE REQUIREMENTS FOR THE CURRENT PERIOD AS REQUIRED BY THE BOND DOCUMENTS HAVE BEEN SATISFIED, SHALL BE TRANSFERRED IN ACCORDANCE WITH SECTION 5-572.

C. MONIES IN THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND MAY BE USED ONLY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

5-535. Securing principal and interest; refunding bonds

A. IN CONNECTION WITH ISSUING STATE LOTTERY REVENUE BONDS AUTHORIZED BY THIS ARTICLE AND TO SECURE THE PRINCIPAL AND INTEREST ON THE BONDS, THE DIRECTOR MAY:

1. SEGREGATE THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND INTO ONE OR MORE ACCOUNTS AND SUBACCOUNTS AND PROVIDE THAT BONDS ISSUED UNDER THIS ARTICLE MAY BE SECURED BY A LIEN ON ALL OR PART OF THE MONIES PAID INTO THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND OR INTO ANY ACCOUNT OR SUBACCOUNT IN THE FUND.

2. PROVIDE THAT THE BONDS ISSUED UNDER THIS ARTICLE ARE SECURED BY A FIRST LIEN ON THE MONIES PAID INTO THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND AND PAID INTO THE STATE LOTTERY FUND TO BE PLACED IN THE STATE LOTTERY BOND DEBT SERVICE FUND AS PROVIDED IN THIS ARTICLE AND PLEDGE AND ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS ALL OR PART OF THE MONIES IN THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND, IN ANY ACCOUNT OR SUBACCOUNT IN THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND OR IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND AS IS NECESSARY TO SECURE AND PAY THE PRINCIPAL, THE INTEREST AND ANY PREMIUM ON THE BONDS AS THEY COME DUE.

3. ESTABLISH PRIORITIES AMONG BONDHOLDERS BASED ON CRITERIA ADOPTED BY THE DIRECTOR.

4. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING ACCOUNTS.

5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH THE CONSENT MAY BE GIVEN.

6. PROVIDE FOR PAYMENT OF BOND RELATED EXPENSES FROM THE PROCEEDS OF THE SALE OF THE BONDS OR OTHER REVENUES AUTHORIZED BY THIS ARTICLE AND AVAILABLE TO THE DIRECTOR.

7. PROVIDE FOR THE SERVICES OF TRUSTEES, COTRUSTEES, AGENTS AND CONSULTANTS AND OTHER SPECIALIZED SERVICES WITH RESPECT TO THE BONDS.

8. TAKE ANY OTHER ACTION THAT IN ANY WAY MAY AFFECT THE SECURITY AND PROTECTION OF THE BONDS OR INTEREST ON THE BONDS.

9. REFUND ANY BONDS ISSUED BY THE DIRECTOR BY ISSUING NEW BONDS, IF THESE BONDS ARE SECURED FROM THE SAME SOURCE OF REVENUES AS THE BONDS AUTHORIZED BY THIS ARTICLE.

10. ISSUE BONDS PARTLY TO REFUND OUTSTANDING BONDS AND PARTLY FOR ANY OTHER PURPOSE CONSISTENT WITH THIS ARTICLE.

B. IF STATE LOTTERY REVENUE BONDS ARE ISSUED, THE DIRECTOR SHALL PROVIDE TO THE STATE LOTTERY COMMISSION A SCHEDULE OF THE AMOUNT NEEDED TO PAY EACH FISCAL YEAR'S DEBT SERVICE ON OUTSTANDING STATE LOTTERY REVENUE BONDS, INCLUDING SINKING FUND AND RESERVE FUND DEPOSITS PURSUANT TO THE TERMS OF THE BONDS, BOND RELATED EXPENSES AND AMOUNTS PAYABLE WITH RESPECT TO BOND RELATED OBLIGATIONS.

5-536. Lien of pledge

A. ANY PLEDGE MADE UNDER THIS ARTICLE IN CONNECTION WITH STATE LOTTERY REVENUE BONDS IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

B. THE MONIES PLEDGED AND RECEIVED BY THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND AND BY THE STATE LOTTERY FUND TO BE PLACED IN THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR FURTHER ACT. ANY LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES THAT HAVE CLAIMS OF ANY KIND AGAINST THE STATE, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL RESOLUTION OR TRUST INDENTURE OR ANY INSTRUMENT BY WHICH THIS PLEDGE IS CREATED WHEN ADOPTED BY THE DIRECTOR, IS NOTICE TO ALL CONCERNED OF THE CREATION OF THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE RECORDED IN ANY OTHER PLACE TO PERFECT THE PLEDGE.

5-537. Bond purchase; cancellation

THE DIRECTOR MAY PURCHASE BONDS FOR CANCELLATION OUT OF ANY MONIES AVAILABLE FOR THE PURCHASE, AT A PRICE OF NOT MORE THAN EITHER OF THE FOLLOWING:

1. IF THE BONDS ARE REDEEMABLE AT THE TIME OF THE PURCHASE, THE APPLICABLE REDEMPTION PRICE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE ON THE BONDS.

2. IF THE BONDS ARE NOT REDEEMABLE AT THE TIME OF THE PURCHASE, THE APPLICABLE REDEMPTION PRICE ON THE FIRST DATE AFTER THE PURCHASE ON WHICH THE BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

5-538. Payment of bonds

THE STATE LOTTERY REVENUE BONDS SHALL BE PAID SOLELY FROM MONIES FROM THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND ESTABLISHED BY SECTION 5-534.

5-539. Investment of monies; funds

A. THE DIRECTOR MAY AUTHORIZE THE STATE TREASURER OR BOND TRUSTEE TO INVEST MONIES IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND AND THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND.

B. THE ORDER DIRECTING AN INVESTMENT MAY STATE A SPECIFIED TIME WHEN THE MONIES INVESTED WILL BE USED. THE STATE TREASURER OR BOND TRUSTEE SHALL MAKE THE INVESTMENT IN SUCH A WAY AS TO MATURE AT THE SPECIFIED DATE.

C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE INVESTMENT OF THE MONIES IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND AND THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND SHALL BE CREDITED TO THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND ESTABLISHED BY SECTION 5-534.

D. AT THE DIRECTION OF THE DIRECTOR, THE STATE TREASURER OR BOND TRUSTEE MAY INVEST OR REINVEST MONIES IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND AND THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND IN INVESTMENTS AUTHORIZED BY SECTION 35-313. THE PURCHASE OF THE SECURITIES SHALL BE MADE BY THE STATE TREASURER OR BOND TRUSTEE ON AUTHORITY OF THE DIRECTOR. THE TREASURER OR BOND TRUSTEE SHALL ACT AS CUSTODIAN OF ALL

SECURITIES PURCHASED. THE SECURITIES MAY BE SOLD ON AN ORDER OF THE DIRECTOR.

5-540. Characteristics of bonds; negotiable; exemption from taxation; obligation; legal investments

A. STATE LOTTERY REVENUE BONDS ISSUED UNDER THIS ARTICLE ARE FULLY NEGOTIABLE WITHIN THE MEANING AND FOR ALL PURPOSES OF THE UNIFORM COMMERCIAL CODE, SUBJECT ONLY TO ANY PROVISIONS FOR REGISTRATION, REGARDLESS OF WHETHER THE BONDS ACTUALLY CONSTITUTE NEGOTIABLE INSTRUMENTS UNDER THE UNIFORM COMMERCIAL CODE.

B. THE BONDS, THE TRANSFER OF THE BONDS AND THE INCOME FROM THE BONDS ARE AT ALL TIMES FREE FROM TAXATION IN THIS STATE.

C. STATE LOTTERY REVENUE BONDS:

1. ARE PAYABLE ONLY ACCORDING TO THEIR TERMS.

2. ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE.

3. DO NOT CONSTITUTE A DEBT OF THIS STATE.

4. ARE NOT ENFORCEABLE AGAINST THIS STATE NOR IS THE PAYMENT OF THE BONDS ENFORCEABLE OUT OF ANY MONIES OTHER THAN THE REVENUE PLEDGED AND ASSIGNED TO, OR IN TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF THE BONDS.

5. ARE SECURITIES IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE AND OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL COMPANIES, ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL FINANCIAL INSTITUTIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE AUTHORIZED TO INVEST IN GOVERNMENT OBLIGATIONS MAY PROPERLY AND LEGALLY INVEST.

6. ARE SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES OF THIS STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR PURPOSES THAT REQUIRE THE DEPOSIT OF GOVERNMENT BONDS OR OBLIGATIONS.

5-541. Effect of changing circumstances of bonds; agreement of state

A. AN AMENDMENT OF ANY PROVISION OF THIS ARTICLE DOES NOT DIMINISH OR IMPAIR THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE OR THE REMEDIES AND RIGHTS OF BONDHOLDERS.

B. THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE BONDS AUTHORIZED BY THIS ARTICLE THAT THIS STATE WILL NOT LIMIT, ALTER OR IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, UNTIL ALL BONDS ISSUED UNDER THIS ARTICLE, TOGETHER WITH INTEREST ON THE BONDS, INTEREST ON ANY UNPAID INSTALLMENTS OF PRINCIPAL OR INTEREST AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS, ARE FULLY MET AND DISCHARGED. THE DIRECTOR, AS AGENT FOR THIS STATE, MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND INDENTURES AUTHORIZING AND SECURING THE BONDS.

5-542. Validity of bonds

A. THIS ARTICLE CONSTITUTES FULL AUTHORITY FOR AUTHORIZING AND ISSUING STATE LOTTERY REVENUE BONDS WITHOUT REFERENCE TO ANY OTHER LAW OF THIS STATE. NO OTHER LAW WITH REGARD TO AUTHORIZING OR ISSUING OBLIGATIONS OR THAT IN ANY WAY IMPEDES OR RESTRICTS PERFORMING THE ACTS AUTHORIZED BY THIS ARTICLE MAY BE CONSTRUED TO APPLY TO ANY PROCEEDINGS TAKEN OR ACTS DONE PURSUANT TO THIS ARTICLE.

B. THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE DOES NOT DEPEND ON AND IS NOT AFFECTED BY THE LEGALITY OF ANY PROCEEDING RELATING TO ANY ACTION RELATING TO APPLICATION OF THE PROCEEDS OF THE BONDS.

C. THE BONDS SHALL RECITE THAT THEY ARE REGULARLY ISSUED PURSUANT TO THIS ARTICLE. THAT RECITAL CONSTITUTES PRIMA FACIE EVIDENCE OF THE LEGALITY AND VALIDITY OF THE BONDS. FROM AND AFTER THE SALE AND DELIVERY OF THE BONDS, THEY ARE INCONTESTABLE BY THE DIRECTOR OR THIS STATE.

5-543. State officials to comply with agreements

NOTWITHSTANDING ANY OTHER LAW, ALL STATE OFFICIALS SHALL COMPLY WITH ALL AGREEMENTS MADE BY THE DIRECTOR WITH OR FOR THE BENEFIT OF THE OWNERS OF ITS STATE LOTTERY REVENUE BONDS. THE EXECUTIVE DIRECTOR OF THE STATE LOTTERY COMMISSION SHALL PROVIDE ASSISTANCE AND INFORMATION AS REQUESTED BY THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION TO ACCOMPLISH THE PURPOSES OF THIS ARTICLE AND THE ISSUANCE, SALE AND ADMINISTRATION OF THE BONDS.

Sec. 2. State owned facilities; lease-purchase finance agreement

A. Not later than September 30, 2010, the department of administration shall enter into one or more lease-purchase agreements through the sale and simultaneous lease-purchase of any state owned facility or facilities. If the lease-purchase agreement involves a state department of corrections facility, the department of administration shall enter into the lease-purchase agreement in consultation with the state department of corrections. The agreement or agreements shall:

1. Result in net available proceeds of not more than $300,000,000 in the state general fund by September 30, 2010, in addition to the amount derived from lease-purchase agreements authorized by Laws 2009, third special session, chapter 6, section 32.

2. Be for a fixed term of not more than twenty years.

3. Require the initial lease-purchase payment to be in fiscal year 2010-2011.

4. Be entered into with a bank trustee selected by the director of the department of administration and provide for the issuance of certificates of participation.

B. Notwithstanding section 41-791.02, Arizona Revised Statutes, any lease-purchase agreement entered into pursuant to this section shall provide that:

1. The obligation of this state to make any payment under the agreement is a current expense of the department of administration, payable

exclusively from appropriated monies, and is not a general obligation indebtedness of this state or the department of administration.

2. If the legislature fails to appropriate monies or the department of administration fails to allocate such monies for any payment under the agreement, the agreement terminates at the end of the current term and this state and the department of administration are relieved of any subsequent obligation under the agreement.

3. The department of administration may covenant to use its best efforts to budget, obtain, allocate and maintain sufficient appropriated monies to make payments under the agreement, but the agreement shall acknowledge that appropriating state monies is a legislative act and is beyond the control of the department of administration or any other party to the agreement.

C. Notwithstanding any other law, the department of administration may transfer some or all of this state's interest in any state department of corrections prison facility or any other state owned facility. Any agreements or transactions determined by the department of administration to be necessary to comply with the requirements of this section are exempt from title 41, chapter 23, Arizona Revised Statutes. The authority conferred by this section is in addition to the powers conferred by any other law, without reference to any other law, and is full authority for the actions authorized by this section, including entering into and performing agreements without regard to the requirements or procedures of any other law.

D. This state shall maintain operations at any facility and the state department of corrections or a private contractor shall maintain operations at any prison facility that is sold pursuant to this section.

E. The department of administration shall notify the joint committee on capital review of the lease-purchase agreement's proposed terms and conditions at least ten days before an initial public offering document is released.

Sec. 3. Conditional enactment

Title 5, chapter 5.1, Arizona Revised Statutes, as added by this act, does not become effective unless Senate Bill 1004, forth-ninth legislature, sixth special session, relating to the state lottery, becomes law.

APPROVED BY THE GOVERNOR FEBRUARY 12, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 12, 2010.