

SENATE BILL No. 237

By By Committee on Federal and State Affairs

3-17

1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack
2 gaming facilities; amending K.S.A. 2010 Supp. 74-8734, 74-8741, 74-
3 8744, 74-8747, 74-8751 and 74-8768 and repealing the existing
4 sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 74-8734 is hereby amended to read as
8 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
9 facility in each gaming zone.

10 (b) Not more than 30 days after the effective date of this act the
11 lottery commission shall adopt and publish in the Kansas register the
12 procedure for receiving, considering and approving, proposed lottery
13 gaming facility management contracts. Such procedure shall include
14 provisions for review of competitive proposals within a gaming zone and
15 the date by which proposed lottery gaming facility management contracts
16 must be received by the lottery commission if they are to receive
17 consideration.

18 (c) The lottery commission shall adopt standards to promote the
19 integrity of the gaming and finances of lottery gaming facilities, which
20 shall apply to all management contracts, shall meet or exceed industry
21 standards for monitoring and controlling the gaming and finances of
22 gaming facilities and shall give the executive director sufficient authority
23 to monitor and control the gaming operation and to ensure its integrity and
24 security.

25 (d) The Kansas lottery commission may approve management
26 contracts with one or more prospective lottery gaming facility managers to
27 manage, or construct and manage, on behalf of the state of Kansas and
28 subject to the operational control of the Kansas lottery, a lottery gaming
29 facility or lottery gaming enterprise at specified destination locations
30 within the northeast, south central, southwest and southeast Kansas
31 gaming zones where the commission determines the operation of such
32 facility would promote tourism and economic development. The
33 commission shall approve or disapprove a proposed management contract
34 within 90 days after the deadline for receipt of proposals established
35 pursuant to subsection (b).

36 (e) In determining whether to approve a management contract with a

1 prospective lottery gaming facility manager to manage a lottery gaming
2 facility or lottery gaming enterprise pursuant to this section, the
3 commission shall take into consideration the following factors: The size of
4 the proposed facility; the geographic area in which such facility is to be
5 located; the proposed facility's location as a tourist and entertainment
6 destination; the estimated number of tourists that would be attracted by the
7 proposed facility; the number and type of lottery facility games to be
8 operated at the proposed facility; and agreements related to ancillary
9 lottery gaming facility operations.

10 (f) Subject to the requirements of this section, the commission shall
11 approve at least one proposed lottery gaming facility management contract
12 for a lottery gaming facility in each gaming zone.

13 (g) The commission shall not approve a management contract unless:

14 (1) (A) The prospective lottery gaming facility manager is a resident
15 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
16 to financial resources to support the activities required of a lottery gaming
17 facility manager under the Kansas expanded lottery act; and (ii) has three
18 consecutive years' experience in the management of gaming which would
19 be class III gaming, as defined in K.S.A. 46-2301, and amendments
20 thereto, operated pursuant to state or federal law; or

21 (B) the prospective lottery gaming facility manager is not a resident
22 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
23 to financial resources to support the activities required of a lottery gaming
24 facility manager under the Kansas expanded lottery act; (ii) is current in
25 filing all applicable tax returns and in payment of all taxes, interest and
26 penalties owed to the state of Kansas and any taxing subdivision where
27 such prospective manager is located in the state of Kansas, excluding
28 items under formal appeal pursuant to applicable statutes; and (iii) has
29 three consecutive years' experience in the management of gaming which
30 would be class III gaming, as defined in K.S.A. 46-2301, and amendments
31 thereto, operated pursuant to state or federal law; and

32 (2) the commission determines that the proposed development
33 consists of an investment in infrastructure, including ancillary lottery
34 gaming facility operations, of at least \$225,000,000 in the northeast,
35 ~~southeast~~ and south central Kansas gaming zones ~~and, of at least~~
36 *\$100,000,000 in the southeast Kansas gaming zone and of at least*
37 \$50,000,000 in the southwest Kansas gaming zone. The commission, in
38 determining whether the minimum investment required by this subsection
39 is met, shall not include any amounts derived from or financed by state or
40 local retailers' sales tax revenues.

41 (h) Any management contract approved by the commission under this
42 section shall:

43 (1) Have a maximum initial term of 15 years from the date of opening

1 of the lottery gaming facility. At the end of the initial term, the contract
2 may be renewed by mutual consent of the state and the lottery gaming
3 facility manager;

4 (2) specify the total amount to be paid to the lottery gaming facility
5 manager pursuant to the contract;

6 (3) establish a mechanism to facilitate payment of lottery gaming
7 facility expenses, payment of the lottery gaming facility manager's share of
8 the lottery gaming facility revenues and distribution of the state's share of
9 the lottery gaming facility revenues;

10 (4) include a provision for the lottery gaming facility manager to pay
11 the costs of oversight and regulation of the lottery gaming facility manager
12 and the operations of the lottery gaming facility by the Kansas racing and
13 gaming commission *and the Kansas lottery*;

14 (5) establish the types of lottery facility games to be installed in such
15 facility;

16 (6) provide for the prospective lottery gaming facility manager, upon
17 approval of the proposed lottery gaming facility management contract, to
18 pay to the state treasurer a *nonrefundable* privilege fee, *except as provided*
19 *in K.S.A. 2010 Supp. 74-8738, and amendments thereto, and except in*
20 *circumstances when a lottery facility management contract is disapproved*
21 *by either the lottery gaming facility review board or the Kansas racing*
22 *and gaming commission pursuant to K.S.A. 2010 Supp. 74-8736, and*
23 *amendments thereto* of: (A) \$25,000,000 for the privilege of being selected
24 as a lottery gaming facility manager of a lottery gaming facility in the
25 northeast, ~~southeast~~ or south central Kansas gaming zone ~~and~~; (B)
26 \$11,000,000 for the privilege of being selected as a lottery gaming facility
27 manager of a lottery gaming facility in the southeast Kansas gaming zone;
28 and (C) \$5,500,000 for the privilege of being selected as a lottery gaming
29 facility manager of a lottery gaming facility in the southwest Kansas
30 gaming zone. Such fee shall be deposited in the state treasury and credited
31 to the lottery gaming facility manager fund, which is hereby created in the
32 state treasury;

33 (7) incorporate terms and conditions for the ancillary lottery gaming
34 facility operations;

35 (8) designate as key employees, subject to approval of the executive
36 director, any employees or contractors providing services or functions
37 which are related to lottery facility games authorized by a management
38 contract;

39 (9) include financing commitments for construction;

40 (10) include a resolution of endorsement from the city governing
41 body, if the proposed facility is within the corporate limits of a city, or
42 from the county commission, if the proposed facility is located in the
43 unincorporated area of the county;

1 (11) include a requirement that any parimutuel licensee developing a
2 lottery gaming facility pursuant to this act comply with all orders and rules
3 and regulations of the Kansas racing and gaming commission with regard
4 to the conduct of live racing, including the same minimum days of racing
5 as specified in K.S.A. 2010 Supp. 74-8746, and amendments thereto, for
6 operation of electronic gaming machines at racetrack gaming facilities;

7 (12) include a provision for the state to receive not less than 22% of
8 lottery gaming facility revenues, which shall be paid to the expanded
9 lottery act revenues fund established by K.S.A. 2010 Supp. 74-8768, and
10 amendments thereto;

11 (13) include a provision for 2% of lottery gaming facility revenues to
12 be paid to the problem gambling and addictions grant fund established by
13 K.S.A. 2010 Supp. 79-4805, and amendments thereto;

14 (14) if the prospective lottery gaming facility manager is an American
15 Indian tribe, include a provision that such tribe agrees to waive its
16 sovereign immunity with respect to any actions arising from or to enforce
17 either the Kansas expanded lottery act or any provision of the lottery
18 gaming facility management contract; any action brought by an injured
19 patron or by the state of Kansas; any action for purposes of enforcing the
20 workers compensation act or any other employment or labor law; and any
21 action to enforce laws, rules and regulations and codes pertaining to
22 health, safety and consumer protection; and for any other purpose deemed
23 necessary by the executive director to protect patrons or employees and
24 promote fair competition between the tribe and others seeking a lottery
25 gaming facility management contract;

26 (15) (A) if the lottery gaming facility is located in the northeast or
27 southwest Kansas gaming zone and is not located within a city, include a
28 provision for payment of an amount equal to 3% of the lottery gaming
29 facility revenues to the county in which the lottery gaming facility is
30 located; or (B) if the lottery gaming facility is located in the northeast or
31 southwest Kansas gaming zone and is located within a city, include
32 provision for payment of an amount equal to 1.5% of the lottery gaming
33 facility revenues to the city in which the lottery gaming facility is located
34 and an amount equal to 1.5% of such revenues to the county in which such
35 facility is located;

36 (16) (A) if the lottery gaming facility is located in the southeast or
37 south central Kansas gaming zone and is not located within a city, include
38 a provision for payment of an amount equal to 2% of the lottery gaming
39 facility revenues to the county in which the lottery gaming facility is
40 located and an amount equal to 1% of such revenues to the other county in
41 such zone; or (B) if the lottery gaming facility is located in the southeast or
42 south central Kansas gaming zone and is located within a city, provide for
43 payment of an amount equal to 1% of the lottery gaming facility revenues

1 to the city in which the lottery gaming facility is located, an amount equal
2 to 1% of such revenues to the county in which such facility is located and
3 an amount equal to 1% of such revenues to the other county in such zone;

4 (17) allow the lottery gaming facility manager to manage the lottery
5 gaming facility in a manner consistent with this act and applicable law, but
6 shall place full, complete and ultimate ownership and operational control
7 of the gaming operation of the lottery gaming facility with the Kansas
8 lottery. The Kansas lottery shall not delegate and shall explicitly retain the
9 power to overrule any action of the lottery gaming facility manager
10 affecting the gaming operation without prior notice. The Kansas lottery
11 shall retain full control over all decisions concerning lottery gaming
12 facility games;

13 (18) include provisions for the Kansas racing and gaming
14 commission to oversee all lottery gaming facility operations, including, but
15 not limited to: Oversight of internal controls; oversight of security of
16 facilities; performance of background investigations, determination of
17 qualifications and credentialing of employees, contractors and agents of
18 the lottery gaming facility manager and of ancillary lottery gaming facility
19 operations, as determined by the Kansas racing and gaming commission;
20 auditing of lottery gaming facility revenues; enforcement of all state laws
21 and maintenance of the integrity of gaming operations; and

22 (19) include enforceable provisions: (A) Prohibiting the state, until
23 July 1, 2032, from (i) entering into management contracts for more than
24 four lottery gaming facilities or similar gaming facilities, one to be located
25 in the northeast Kansas gaming zone, one to be located in the south central
26 Kansas gaming zone, one to be located in the southwest Kansas gaming
27 zone and one to be located in the southeast Kansas gaming zone, (ii)
28 designating additional areas of the state where operation of lottery gaming
29 facilities or similar gaming facilities would be authorized or (iii) operating
30 an aggregate of more than 2,800 electronic gaming machines at all
31 parimutuel licensee locations; and (B) requiring the state to repay to the
32 lottery gaming facility manager an amount equal to the privilege fee paid
33 by such lottery gaming facility manager, plus interest on such amount,
34 compounded annually at the rate of 10%, if the state violates the
35 prohibition provision described in (A).

36 (i) The power of eminent domain shall not be used to acquire any
37 interest in real property for use in a lottery gaming enterprise.

38 (j) Any proposed management contract for which the privilege fee
39 has not been paid to the state treasurer within 30 days after the date of
40 approval of the management contract shall be null and void.

41 (k) A person who is the manager of the racetrack gaming facility in a
42 gaming zone shall not be eligible to be the manager of the lottery gaming
43 facility in the same zone.

1 (l) Management contracts authorized by this section may include
2 provisions relating to:

3 (1) Accounting procedures to determine the lottery gaming facility
4 revenues, unclaimed prizes and credits;

5 (2) minimum requirements for a lottery gaming facility manager to
6 provide qualified oversight, security and supervision of the lottery facility
7 games including the use of qualified personnel with experience in
8 applicable technology;

9 (3) eligibility requirements for employees, contractors or agents of a
10 lottery gaming facility manager who will have responsibility for or
11 involvement with actual gaming activities or for the handling of cash or
12 tokens;

13 (4) background investigations to be performed by the Kansas racing
14 and gaming commission;

15 (5) credentialing requirements for any employee, contractor or agent
16 of the lottery gaming facility manager or of any ancillary lottery gaming
17 facility operation as provided by the Kansas expanded lottery act or rules
18 and regulations adopted pursuant thereto;

19 (6) provision for termination of the management contract by either
20 party for cause; and

21 (7) any other provision deemed necessary by the parties, including
22 such other terms and restrictions as necessary to conduct any lottery
23 facility game in a legal and fair manner.

24 (m) A management contract shall not constitute property, nor shall it
25 be subject to attachment, garnishment or execution, nor shall it be
26 alienable or transferable, except upon approval by the executive director,
27 nor shall it be subject to being encumbered or hypothecated. The trustee of
28 any insolvent or bankrupt lottery gaming facility manager may continue to
29 operate pursuant to the management contract under order of the
30 appropriate court for no longer than one year after the bankruptcy or
31 insolvency of such manager.

32 (n) (1) The Kansas lottery shall be the licensee and owner of all
33 software programs used at a lottery gaming facility for any lottery facility
34 game.

35 (2) A lottery gaming facility manager, on behalf of the state, shall
36 purchase or lease for the Kansas lottery all lottery facility games. All
37 lottery facility games shall be subject to the ultimate control of the Kansas
38 lottery in accordance with this act.

39 (o) A lottery gaming facility shall comply with any planning and
40 zoning regulations of the city or county in which it is to be located. The
41 executive director shall not contract with any prospective lottery gaming
42 facility manager for the operation and management of such lottery gaming
43 facility unless such manager first receives any necessary approval under

1 planning and zoning requirements of the city or county in which it is to be
2 located.

3 (p) Prior to expiration of the term of a lottery gaming facility
4 management contract, the lottery commission may negotiate a new lottery
5 gaming facility management contract with the lottery gaming facility
6 manager if the new contract is substantially the same as the existing
7 contract. Otherwise, the lottery gaming facility review board shall be
8 reconstituted and a new lottery gaming facility management contract shall
9 be negotiated and approved in the manner provided by this act.

10 Sec. 2. K.S.A. 2010 Supp. 74-8741 is hereby amended to read as
11 follows: 74-8741. (a) The executive director of the Kansas lottery shall
12 negotiate a racetrack gaming facility management contract to place
13 electronic gaming machines at one parimutuel licensee location in each
14 gaming zone except the southwest Kansas gaming zone.

15 (b) To be eligible to enter into a racetrack gaming facility
16 management contract the prospective racetrack gaming facility manager
17 shall, at a minimum:

18 (1) Have sufficient access to financial resources to support the
19 activities required of a racetrack gaming facility manager under the Kansas
20 expanded lottery act; and

21 (2) be current in filing all applicable tax returns and in payment of all
22 taxes, interest and penalties owed to the state of Kansas and any taxing
23 subdivision where such prospective manager is located in the state of
24 Kansas, excluding items under formal appeal pursuant to applicable
25 statutes.

26 (c) A racetrack gaming facility management contract shall include:

27 (1) The term of the contract;

28 (2) provisions for the Kansas racing and gaming commission to
29 oversee all racetrack gaming facility operations, including, but not limited to:
30 Oversight of internal controls; oversight of security of facilities;
31 performance of background investigations, determination of qualifications
32 and any required certification or licensing of officers, directors, board
33 members, employees, contractors and agents of the racetrack gaming
34 facility manager; auditing of net electronic gaming machine income and
35 maintenance of the integrity of electronic gaming machine operations;

36 (3) provisions for the racetrack gaming facility manager to pay the
37 costs of oversight and regulation of the racetrack gaming facility manager
38 under this act and such manager's racetrack gaming facility operations by
39 the Kansas racing and gaming commission *and the Kansas lottery*; ~~and~~

40 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
41 2032, from (i) entering into management contracts for more than ~~three~~
42 *four* lottery gaming facilities or similar gaming facilities, one to be located
43 in the northeast Kansas gaming zone, one to be located in the south central

1 Kansas gaming zone ~~and~~, one to be located in the southeast Kansas
2 gaming zone *and one to be located in the southwest Kansas gaming zone*,
3 (ii) designating additional areas of the state where operation of lottery
4 gaming facilities or similar gaming facilities would be authorized or (iii)
5 operating an aggregate of more than 2,800 electronic gaming machines at
6 all parimutuel licensee locations; and (B) requiring the state to repay to the
7 racetrack gaming facility manager an amount equal to the privilege fee
8 paid by such racetrack gaming facility manager, plus interest on such
9 amount, compounded annually at the rate of 10%, if the state violates the
10 prohibition provision described in (A); *and*

11 *(5) a resolution of endorsement from the city governing body, if the*
12 *proposed facility is within the corporate limits of a city, or from the county*
13 *commission, if the proposed facility is located in the unincorporated area*
14 *of the county.*

15 (d) Racetrack gaming facility management contracts authorized by
16 this section may include provisions relating to:

17 (1) Accounting procedures to determine net electronic gaming
18 machine income, unclaimed prizes and credits;

19 (2) minimum requirements for a racetrack gaming facility manager to
20 provide qualified oversight, security and supervision of electronic gaming
21 machines including the use of qualified personnel with experience in
22 applicable technology;

23 (3) eligibility requirements for employees, contractors or agents of a
24 racetrack gaming facility manager who will have responsibility for or
25 involvement with electronic gaming machines or for the handling of cash
26 or tokens;

27 (4) background investigations to be performed by the Kansas racing
28 and gaming commission;

29 (5) credentialing or certification requirements of any employee,
30 contractor or agent as provided by the Kansas expanded lottery act or rules
31 and regulations adopted pursuant thereto;

32 (6) provision for termination of the management contract by either
33 party for cause; and

34 (7) any other provision deemed necessary by the parties, including
35 such other terms and restrictions as necessary to conduct racetrack gaming
36 facility operations in a legal and fair manner.

37 (e) A person who is the manager of a lottery gaming facility in a
38 gaming zone shall not be eligible to be the manager of the racetrack
39 gaming facility in the same zone.

40 (f) A racetrack gaming facility management contract shall not
41 constitute property, nor shall it be subject to attachment, garnishment or
42 execution, nor shall it be alienable or transferable, except upon approval
43 by the executive director, nor shall it be subject to being encumbered or

1 hypothecated.

2 Sec. 3. K.S.A. 2010 Supp. 74-8744 is hereby amended to read as
3 follows: 74-8744. (a) In accordance with rules and regulations adopted by
4 the commission, the executive director shall have general responsibility for
5 the implementation and administration of the provisions of this act relating
6 to racetrack gaming facility operations, including the responsibility to:

7 (1) Certify net electronic gaming machine income by inspecting
8 records, conducting audits, having agents of the Kansas lottery on site or
9 by any other reasonable means; and

10 (2) assist the commission in the promulgation of rules and
11 regulations concerning the operation of racetrack gaming facilities, which
12 rules and regulations shall include, without limitation, the following:

13 (A) The number of electronic gaming machines allocated for
14 placement at each racetrack gaming facility, subject to the provisions of
15 subsection (b);

16 (B) standards for advertising, marketing and promotional materials
17 used by racetrack gaming facility managers;

18 (C) the kind, type, number and location of electronic gaming
19 machines at any racetrack gaming facility; and

20 (D) rules and regulations and procedures for the accounting and
21 reporting of the payments required from racetrack gaming facility
22 managers under K.S.A. 2010 Supp. 74-8766, and amendments thereto,
23 including the calculations required for such payments.

24 (b) Rules and regulations establishing the minimum and maximum
25 number of electronic gaming machines allocated for placement at each
26 racetrack gaming facility shall be adopted and published not later than 120
27 days after the effective date of this act. Such rules and regulations shall be
28 subject to the following:

29 (1) At least 600, *but not more than 1,200*, electronic gaming
30 machines shall be allocated to and placed at each racetrack gaming facility.

31 (2) The total number of electronic gaming machines allocated to and
32 placed at all racetrack gaming facilities in the state shall not exceed 2,800.
33 ~~Until lottery gaming facility management contracts for lottery gaming~~
34 ~~facilities in all gaming zones become binding, the total number of~~
35 ~~electronic gaming machines placed at all racetrack gaming facilities shall~~
36 ~~not exceed 2,200. When lottery gaming facility management contracts for~~
37 ~~lottery gaming facilities in all gaming zones have become binding, the~~
38 ~~lottery commission shall take privilege fee bids from the lottery gaming~~
39 ~~facility manager and racetrack gaming facility manager in each gaming~~
40 ~~zone for the remaining electronic gaming machines allocated to but not yet~~
41 ~~placed at the racetrack gaming facility in such zone. The minimum bid~~
42 ~~shall be a privilege fee of \$2,500 per electronic gaming machine. If the~~
43 ~~racetrack gaming facility manager submits the highest bid, the lottery~~

1 ~~commission shall place the remaining electronic gaming machines at the~~
2 ~~racetrack gaming facility. If the lottery gaming facility manager submits~~
3 ~~the highest bid, the commission shall not place any additional electronic~~
4 ~~gaming machines at the racetrack gaming facility.~~

5 ~~(3) In addition to any privilege fee paid pursuant to paragraph (2),~~
6 Each racetrack gaming facility manager shall pay a privilege fee of \$2,500
7 for each electronic gaming machine placed at the racetrack gaming facility
8 for which a privilege fee is not paid pursuant to paragraph (2).

9 (4) The racetrack gaming facility manager shall pay the privilege fees
10 provided by this subsection to the executive director, who shall remit the
11 entire amount to the state treasurer in accordance with K.S.A. 75-4215,
12 and amendments thereto. Upon receipt of the remittance, the state treasurer
13 shall deposit the entire amount in the state treasury and credit it to the
14 expanded lottery act revenues fund.

15 Sec. 4. K.S.A. 2010 Supp. 74-8747 is hereby amended to read as
16 follows: 74-8747. (a) Net electronic gaming machine income from a
17 racetrack gaming facility *located in the southeast Kansas gaming zone*
18 shall be distributed as follows:

19 (1) To the racetrack gaming facility manager, an amount equal to 25%
20 *not more than 58%* of net electronic gaming machine income;

21 (2) 7% of net electronic gaming machine income shall be credited to
22 the live horse racing purse supplement fund established by K.S.A. 2010
23 Supp. 74-8767, and amendments thereto, ~~except that the amount of net~~
24 ~~electronic gaming machine income credited to the fund during any fiscal~~
25 ~~year from electronic gaming machines at a racetrack gaming facility shall~~
26 ~~not exceed an amount equal to the average of \$3,750 per electronic gaming~~
27 ~~machine at each location and any moneys in excess of such amount shall~~
28 ~~be distributed between the state and the racetrack gaming facility manager~~
29 ~~in accordance with the racetrack gaming facility management contract;~~

30 (3) 7% of net electronic gaming machine income shall be credited to
31 the live greyhound racing purse supplement fund established by K.S.A.
32 2010 Supp. 74-8767, and amendments thereto, ~~except that the amount of~~
33 ~~net electronic gaming machine income credited to the fund during any~~
34 ~~fiscal year from electronic gaming machines at a racetrack gaming facility~~
35 ~~shall not exceed an amount equal to the average of \$3,750 per electronic~~
36 ~~gaming machine at each location and any moneys in excess of such~~
37 ~~amount shall be distributed between the state and the racetrack gaming~~
38 ~~facility manager in accordance with the racetrack gaming facility~~
39 ~~management contract;~~

40 (4) (A) ~~if the racetrack gaming facility is located in the northeast~~
41 ~~Kansas gaming zone and is not located within a city, include a provision~~
42 ~~for payment of an amount equal to 3% of the racetrack gaming facility~~
43 ~~revenues[*] to the county in which the racetrack gaming facility is located;~~

1 or (B) if the racetrack gaming facility is located in the northeast Kansas
2 gaming zone and is located within a city, include provision for payment of
3 an amount equal to 1.5% of the racetrack gaming facility revenues[*] to the
4 city in which the racetrack gaming facility is located and an amount equal
5 to 1.5% of such revenues to the county in which such facility is located;

6 ~~(5) (4) (A)~~ if the racetrack gaming facility is located in the southeast
7 or south central Kansas gaming zone and is not located within a city,
8 include a provision for payment of an amount equal to 2% of the racetrack
9 gaming facility revenues *net electronic gaming machine income* to the
10 county in which the racetrack gaming facility is located and an amount
11 equal to 1% of such revenues *income* to the other county in such zone; or
12 (B) if the racetrack gaming facility is located in the southeast or south
13 central Kansas gaming zone and is located within a city, provide for
14 payment of an amount equal to 1% of the racetrack gaming facility
15 revenues *net electronic gaming machine income* to the city in which the
16 racetrack gaming facility is located, an amount equal to 1% of such
17 revenues *income* to the county in which such facility is located and an
18 amount equal to 1% of such revenues *income* to the other county in such
19 zone;

20 ~~(6) (5)~~ 2% of net electronic gaming machine income shall be credited
21 to the problem gambling and addictions grant fund established by K.S.A.
22 2010 Supp. 79-4805, and amendments thereto;

23 ~~(7) (6)~~ 1% of net electronic gaming machine income shall be credited
24 to the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
25 and amendments thereto; *and*

26 ~~(8) (7)~~ 40% *not less than 22%* of net electronic gaming machine
27 income shall be credited to the expanded lottery act revenues fund; *and*.

28 ~~(9)~~ 15% of electronic gaming machine income shall be used for
29 gaming expenses, subject to agreement between the Kansas lottery and the
30 racetrack gaming facility manager.

31 (b) A racetrack gaming facility management contract may include
32 provisions for a parimutuel licensee or any other entity to pay the
33 parimutuel licensee's expenses related to electronic gaming machines, as
34 the executive director deems appropriate, ~~subject to the requirements of~~
35 ~~subsection (a)(9).~~

36 New Sec. 5. (a) Net electronic gaming machine income from a
37 racetrack gaming facility located in the northeast and south central Kansas
38 gaming zone shall be distributed as follows:

39 (1) To the racetrack gaming facility manager, an amount equal to 25%
40 of net electronic gaming machine income;

41 (2) 7% of net electronic gaming machine income shall be credited to
42 the live horse racing purse supplement fund established by K.S.A. 2010
43 Supp. 74-8767, and amendments thereto except that the amount of net

1 electronic gaming machine income credited to the fund during any fiscal
2 year from electronic gaming machines at a racetrack gaming facility shall
3 not exceed an amount equal to the average of \$3,750 per electronic gaming
4 machine at each location and any moneys in excess of such amount shall
5 be distributed between the state and the racetrack gaming facility manager
6 in accordance with the racetrack gaming facility management contract;

7 (3) 7% of net electronic gaming machine income shall be credited to
8 the live greyhound racing purse supplement fund established by K.S.A.
9 2010 Supp. 74-8767, and amendments thereto, except that the amount of
10 net electronic gaming machine income credited to the fund during any
11 fiscal year from electronic gaming machines at a racetrack gaming facility
12 shall not exceed an amount equal to the average of \$3,750 per electronic
13 gaming machine at each location and any moneys in excess of such
14 amount shall be distributed between the state and the racetrack gaming
15 facility manager in accordance with the racetrack gaming facility
16 management contract;

17 (4) (A) if the racetrack gaming facility is not located within a city,
18 include a provision for payment of an amount equal to 3% of the net
19 electronic gaming machine income to the county in which the racetrack
20 gaming facility is located; or (B) if the racetrack gaming facility is located
21 within a city, include provision for payment of an amount equal to 1.5% of
22 the net electronic gaming machine income to the city in which the
23 racetrack gaming facility is located and an amount equal to 1.5% of such
24 revenues to the county in which such facility is located;

25 (5) 2% of net electronic gaming machine income shall be credited to
26 the problem gambling and addictions grant fund established by K.S.A.
27 2010 Supp. 79-4805, and amendments thereto;

28 (6) 1% of net electronic gaming machine income shall be credited to
29 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
30 and amendments thereto;

31 (7) 40% of net electronic gaming machine income shall be credited to
32 the expanded lottery act revenues fund; and

33 (8) 15% of electronic gaming machine income shall be used for
34 gaming expenses, subject to agreement between the Kansas lottery and the
35 racetrack gaming facility manager.

36 (b) A racetrack gaming facility management contract may include
37 provisions for a parimutuel licensee or any other entity to pay the
38 parimutuel licensee's expenses related to electronic gaming machines, as
39 the executive director deems appropriate, subject to the requirements of
40 subsection (a)(8).

41 (c) On and after January 1, 2013, net electronic gaming machine
42 income from a racetrack gaming facility located in the northeast Kansas
43 gaming zone shall be distributed as follows:

1 (1) To the racetrack gaming facility manager, an amount equal to not
2 more than 58% of net electronic gaming machine income;

3 (2) 7% of net electronic gaming machine income shall be credited to
4 the live horse racing purse supplement fund established by K.S.A. 2010
5 Supp. 74-8767, and amendments thereto;

6 (3) 7% of net electronic gaming machine income shall be credited to
7 the live greyhound racing purse supplement fund established by K.S.A.
8 2010 Supp. 74-8767, and amendments thereto;

9 (4) (A) if the racetrack gaming facility is not located within a city,
10 include a provision for payment of an amount equal to 3% of the net
11 electronic gaming machine income to the county in which the racetrack
12 gaming facility is located; or (B) if the racetrack gaming facility is located
13 within a city, include a provision for payment of an amount equal to 1.5%
14 of the net electronic gaming machine income to the city in which the
15 racetrack gaming facility is located and an amount equal to 1.5% of such
16 revenues to the county in which such facility is located;

17 (5) 2% of net electronic gaming machine income shall be credited to
18 the problem gambling and addictions grant fund established by K.S.A.
19 2010 Supp 79-4805, and amendments thereto;

20 (6) 1% of net electronic gaming machine income shall be credited to
21 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
22 and amendments thereto; and

23 (7) not less than 22% of net electronic gaming machine income shall
24 be credited to the expanded lottery act revenues fund.

25 (d) On and after January 1, 2013, a racetrack gaming facility
26 management contract may include provisions for a parimutuel licensee or
27 any other entity to pay the parimutuel licensee's expenses related to
28 electronic gaming machines, as the executive director deems appropriate.

29 Sec. 6. K.S.A. 2010 Supp. 74-8751 is hereby amended to read as
30 follows: 74-8751. The Kansas racing and gaming commission, through
31 rules and regulations, shall establish:

32 (a) A certification requirement, and enforcement procedure, for
33 officers, directors, key employees and persons directly or indirectly
34 owning a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or
35 racetrack gaming facility manager. Such certification requirement shall
36 include compliance with such security, fitness and background
37 investigations and standards as the executive director of the Kansas racing
38 and gaming commission deems necessary to determine whether such
39 person's reputation, habits or associations pose a threat to the public
40 interest of the state or to the reputation of or effective regulation and
41 control of the lottery gaming facility or racetrack gaming facility. *In the*
42 *case of a publicly traded company subject to the jurisdiction of the United*
43 *States securities and exchange commission, such certification*

1 *requirements shall require such security, fitness and background*
2 *investigations and standards of officers, directors, key gaming employees*
3 *and persons directly or indirectly owning a 5% or more interest in such*
4 *entity, and specify that such publicly traded company annually provide a*
5 *list of all identifiable shareholders. In the case of institutional investors in*
6 *a publicly traded company, the certification requirement shall provide a*
7 *procedure for issuance of waivers of the background investigation*
8 *requirement by the executive director of the Kansas racing and gaming*
9 *commission. Any person convicted of any felony, a crime involving*
10 *gambling or a crime of moral turpitude prior to applying for a certificate*
11 *hereunder or at any time thereafter shall be deemed unfit. The Kansas*
12 *racing and gaming commission shall conduct the security, fitness and*
13 *background checks required pursuant to this subsection. Certification*
14 *pursuant to this subsection shall not be assignable or transferable;*

15 (b) a certification requirement, and enforcement procedure, for those
16 persons, including electronic gaming machine manufacturers, technology
17 providers and computer system providers, who propose to contract with a
18 lottery gaming facility manager, a racetrack gaming facility manager or the
19 state for the provision of goods or services related to a lottery gaming
20 facility or racetrack gaming facility, including management services. Such
21 certification requirements shall include compliance with such security,
22 fitness and background investigations and standards of officers, directors,
23 key gaming employees and persons directly or indirectly owning a ~~0.5%~~
24 *5% or more interest in such entity as the executive director of the Kansas*
25 *racing and gaming commission deems necessary to determine whether*
26 *such person's reputation, habits and associations pose a threat to the public*
27 *interest of the state or to the reputation of or effective regulation and*
28 *control of the lottery gaming facility or racetrack gaming facility. In the*
29 *case of a publicly traded company subject to the jurisdiction of the United*
30 *States securities and exchange commission or equivalent foreign securities*
31 *law, such certification requirements shall require such security, fitness and*
32 *background investigations and standards of officers, directors, key gaming*
33 *employees and persons directly or indirectly owning a 5% or more interest*
34 *in such entity, and specify that such publicly traded company annually*
35 *provide a list of all identifiable shareholders. In the case of institutional*
36 *investors in a publicly traded company, the certification requirement shall*
37 *provide a procedure for issuance of waivers of the background*
38 *investigation requirement by the executive director of the Kansas racing*
39 *and gaming commission. Any person convicted of any felony, a crime*
40 *involving gambling or a crime of moral turpitude prior to applying for a*
41 *certificate hereunder or at any time thereafter shall be deemed unfit. If the*
42 *executive director of the racing and gaming commission determines the*
43 *certification standards of another state are comprehensive, thorough and*

1 provide similar adequate safeguards, the executive director may certify an
2 applicant already certified in such state without the necessity of a full
3 application and background check. The Kansas racing and gaming
4 commission shall conduct the security, fitness and background checks
5 required pursuant to this subsection. Certification pursuant to this
6 subsection shall not be assignable or transferable;

7 (c) provisions for revocation of a certification required by subsection
8 (a) or (b) upon a finding that the certificate holder, an officer or director
9 thereof or a person directly or indirectly owning a ~~0.5%~~ 5% or more
10 interest therein: (1) Has knowingly provided false or misleading material
11 information to the Kansas lottery or its employees; or (2) has been
12 convicted of a felony, gambling related offense or any crime of moral
13 turpitude; and

14 (d) provisions for suspension, revocation or nonrenewal of a
15 certification required by subsection (a) or (b) upon a finding that the
16 certificate holder, an officer or director thereof or a person directly or
17 indirectly owning a ~~0.5%~~ 5% or more interest therein: (1) Has failed to
18 notify the Kansas lottery about a material change in ownership of the
19 certificate holder, or any change in the directors or officers thereof; (2) is
20 delinquent in remitting money owed to the Kansas lottery; (3) has violated
21 any provision of any contract between the Kansas lottery and the
22 certificate holder; or (4) has violated any provision of the Kansas
23 expanded lottery act or any rule and regulation adopted hereunder.

24 Sec. 7. K.S.A. 2010 Supp. 74-8768 is hereby amended to read as
25 follows: 74-8768. There is hereby created the expanded lottery act
26 revenues fund in the state treasury. All expenditures and transfers from
27 such fund shall be made in accordance with appropriation acts. All moneys
28 credited to such fund shall be expended or transferred only for the
29 purposes of reduction of state debt, ~~state infrastructure improvements~~
30 *expenditures for deferred maintenance of regents institutions pursuant to*
31 *K.S.A. 2010 Supp. 76-7,101 et seq., and amendments thereto, expenditures*
32 *by the Kansas public employees retirement system to be applied to the*
33 *payment of the unfunded actuarial liability of the state for the state of*
34 *Kansas and participating employers under K.S.A. 74-4931, and*
35 *amendments thereto, portion of such liability, as directed by the Kansas*
36 *public employees retirement system and reduction of local ad valorem tax*
37 *in the same manner as provided for allocation of amounts in the local ad*
38 *valorem tax reduction fund.*

39 Sec. 8. K.S.A. 2010 Supp. 74-8734, 74-8741, 74-8744, 74-8747, 74-
40 8751 and 74-8768 are hereby repealed.

41 Sec. 9. This act shall take effect and be in force from and after its
42 publication in the statute book.