

SENATE BILL No. 472

By Committee on Federal and State Affairs

4-26

1 AN ACT concerning the Kansas expanded lottery act; relating to racetrack
2 gaming facilities; creating the Kansas agricultural opportunity act;
3 amending K.S.A. 74-8826 and 74-8836 and K.S.A. 2011 Supp. 74-
4 8734, 74-8741, 74-8744, 74-8745, 74-8746, 74-8747, 74-8751 and 74-
5 8831 and repealing the existing sections; also repealing K.S.A. 74-
6 8824.

7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. Sections 1 through 3, and amendments thereto, shall
10 be known and may be cited as the Kansas agricultural opportunity act, and
11 shall apply to implementation and operation of parimutuel racetrack
12 facilities authorized to offer lottery gaming facility games pursuant to
13 K.S.A. 74-8733 *et seq.*, and amendments thereto, and shall provide for the
14 establishment of a framework for encouraging economic opportunity in
15 rural Kansas through the expansion of horse and greyhound ownership,
16 breeding and investment.

17 New Sec. 2. (a) The official horse registering agency designated by
18 the Kansas racing and gaming commission pursuant to K.S.A. 74-8830,
19 and amendments thereto, shall be responsible for implementing procedures
20 and making recommendations related to the operation of live horse racing
21 pursuant to the requirements of section 3, and amendments thereto.

22 (b) The official greyhound registering agency designated by the
23 Kansas racing and gaming commission pursuant to K.S.A. 74-8832, and
24 amendments thereto, shall be responsible for implementing procedures and
25 making recommendations related to the operation of live greyhound racing
26 pursuant to the requirements of section 3, and amendments thereto.

27 New Sec. 3. (a) On or before December 1, the official breed
28 registering agencies for both horse and greyhound breeds shall make
29 recommendations to the Kansas racing and gaming commission for
30 implementation of programs which will maximize the benefit to economic
31 development in rural Kansas from purse supplements paid pursuant to
32 K.S.A. 2011 Supp. 74-8747, and amendments thereto. Such
33 recommendations made by each breed registering agency shall consider
34 the following:

35 (1) Increasing the number of registered breed horses bred in Kansas
36 and mares and stallions domiciled in Kansas;

1 (2) increasing the number of greyhounds whelped in Kansas and
2 greyhounds in Kansas;

3 (3) increasing the number of horses and greyhounds owned by
4 Kansas residents for the purposes of live racing; and

5 (4) creating jobs in Kansas associated with breeding and racing of
6 horses and greyhounds.

7 (b) On or before January 15, the official breed registering agencies
8 shall submit the following reports to the Kansas racing and gaming
9 commission:

10 (1) The number of horses bred in Kansas and the number of mares
11 and stallions domiciled in Kansas during the previous calendar year;

12 (2) the number of whelped greyhounds registered in Kansas during
13 the previous calendar year;

14 (3) the estimated number of horses and greyhounds owned by Kansas
15 residents during the previous calendar year; and

16 (4) the estimated amount of total purses paid by Kansas parimutuel
17 racetrack facilities with separate total amounts for each source of purse
18 funds.

19 New Sec. 4. (a) The board of county commissioners of Sedgwick
20 county shall not submit by resolution any question seeking voter approval
21 related to lottery gaming facilities or operation of electronic gaming
22 machines within Sedgwick county except as provided in subsection (b).

23 (b) The board of county commissioners of Sedgwick county may
24 submit by resolution, and shall submit upon presentation of a valid petition
25 filed in accordance with subsection (c), to the qualified voters of the
26 county a proposition to permit the operation of electronic gaming
27 machines at an existing parimutuel racetrack within that county. The
28 proposition shall be submitted to the voters at a special election to be held
29 no later than 120 days after the effective date of this section.

30 (c) If the board of county commissioners does not submit a resolution
31 in accordance with subsection (b) within 30 days after the effective date of
32 this act, a petition to submit a proposition to the qualified voters of
33 Sedgwick county pursuant to this section shall be filed with the county
34 election officer within 90 days after the effective date of this act. The
35 petition shall be signed by not less than 5,000 qualified voters of the
36 county. The following shall appear on the petition: "We request an election
37 to determine whether the operation of electronic gaming machines at
38 parimutuel racetrack facilities by the Kansas lottery shall be permitted in
39 Sedgwick county."

40 (d) Upon the submission of a petition, the county election officer
41 shall determine whether a sufficient number of qualified voters of the
42 county have signed such petition. If the submitted petition calling for an
43 election pursuant to this section is deemed valid, the county election

1 officer shall cause the following proposition to be placed on the ballot at
2 the election called for that purpose: "Shall the operation of electronic
3 gaming machines at the Wichita Greyhound Park by the Kansas lottery be
4 permitted in Sedgwick county?"

5 (e) If a majority of the votes cast and counted at such election is in
6 favor of permitting the operation of such machines, the executive director
7 may enter into a contract with the parimutuel racetrack facility licensee in
8 Sedgwick county to operate such machines at its existing location in the
9 county. If a majority of the votes cast and counted at an election under this
10 section is against permitting the operation of electronic gaming machines
11 in the county, the Kansas lottery shall not operate such machines in the
12 county. The county election officer shall transmit a copy of the
13 certification of the results of the election to the executive director and to
14 the Kansas racing and gaming commission.

15 (f) The election provided for by this section shall be conducted, and
16 the votes counted and canvassed, in the manner provided by law for
17 question submitted elections of the county.

18 (g) If in any election provided for by this section a majority of the
19 votes cast and counted is against the proposition permitting the operation
20 of electronic gaming machines in the county, another election submitting
21 the same proposition shall not be held after the date of such election.

22 (h) This section shall be a part of and supplemental to the Kansas
23 expanded lottery act.

24 Sec. 5. K.S.A. 2011 Supp. 74-8734 is hereby amended to read as
25 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
26 facility in each gaming zone.

27 (b) Not more than 30 days after the effective date of this act the
28 lottery commission shall adopt and publish in the Kansas register the
29 procedure for receiving, considering and approving, proposed lottery
30 gaming facility management contracts. Such procedure shall include
31 provisions for review of competitive proposals within a gaming zone and
32 the date by which proposed lottery gaming facility management contracts
33 must be received by the lottery commission if they are to receive
34 consideration.

35 (c) The lottery commission shall adopt standards to promote the
36 integrity of the gaming and finances of lottery gaming facilities, which
37 shall apply to all management contracts, shall meet or exceed industry
38 standards for monitoring and controlling the gaming and finances of
39 gaming facilities and shall give the executive director sufficient authority
40 to monitor and control the gaming operation and to ensure its integrity and
41 security.

42 (d) The Kansas lottery commission may approve management
43 contracts with one or more prospective lottery gaming facility managers to

1 manage, or construct and manage, on behalf of the state of Kansas and
2 subject to the operational control of the Kansas lottery, a lottery gaming
3 facility or lottery gaming enterprise at specified destination locations
4 within the northeast, south central, southwest and southeast Kansas
5 gaming zones where the commission determines the operation of such
6 facility would promote tourism and economic development. The
7 commission shall approve or disapprove a proposed management contract
8 within 90 days after the deadline for receipt of proposals established
9 pursuant to subsection (b).

10 (e) In determining whether to approve a management contract with a
11 prospective lottery gaming facility manager to manage a lottery gaming
12 facility or lottery gaming enterprise pursuant to this section, the
13 commission shall take into consideration the following factors: The size of
14 the proposed facility; the geographic area in which such facility is to be
15 located; the proposed facility's location as a tourist and entertainment
16 destination; the estimated number of tourists that would be attracted by the
17 proposed facility; the number and type of lottery facility games to be
18 operated at the proposed facility; and agreements related to ancillary
19 lottery gaming facility operations.

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

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

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

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

42 (2) the commission determines that the proposed development
43 consists of an investment in infrastructure, including ancillary lottery

1 gaming facility operations, of at least \$225,000,000 in the northeast,
2 ~~southeast~~ and south central Kansas gaming zones and *of at least*
3 \$50,000,000 in the *southeast and* southwest Kansas gaming ~~zone~~ zones.
4 The commission, in determining whether the minimum investment
5 required by this subsection is met, shall not include any amounts derived
6 from or financed by state or local retailers' sales tax revenues.

7 (h) Any management contract approved by the commission under this
8 section shall:

9 (1) Have a maximum initial term of 15 years from the date of opening
10 of the lottery gaming facility. At the end of the initial term, the contract
11 may be renewed by mutual consent of the state and the lottery gaming
12 facility manager;

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

15 (3) establish a mechanism to facilitate payment of lottery gaming
16 facility expenses, payment of the lottery gaming facility manager's share of
17 the lottery gaming facility revenues and distribution of the state's share of
18 the lottery gaming facility revenues;

19 (4) include a provision for the lottery gaming facility manager to pay
20 the costs of oversight and regulation of the lottery gaming facility manager
21 and the operations of the lottery gaming facility by the Kansas racing and
22 gaming commission;

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

25 (6) provide for the prospective lottery gaming facility manager, upon
26 approval of the proposed lottery gaming facility management contract, to
27 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of
28 being selected as a lottery gaming facility manager of a lottery gaming
29 facility in the northeast,~~southeast~~ or south central Kansas gaming zone
30 and \$5,500,000 for the privilege of being selected as a lottery gaming
31 facility manager of a lottery gaming facility in the *southeast or* southwest
32 Kansas gaming zone. Such fee shall be deposited in the state treasury and
33 credited to the lottery gaming facility manager fund, which is hereby
34 created in the state treasury;

35 (7) incorporate terms and conditions for the ancillary lottery gaming
36 facility operations;

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

41 (9) include financing commitments for construction;

42 (10) include a resolution of endorsement from the city governing
43 body, if the proposed facility is within the corporate limits of a city, or

1 from the county commission, if the proposed facility is located in the
2 unincorporated area of the county;

3 (11) include a requirement that any parimutuel licensee developing a
4 lottery gaming facility pursuant to this act comply with all orders and rules
5 and regulations of the Kansas racing and gaming commission with regard
6 to the conduct of live racing, including the same minimum days of racing
7 as specified in K.S.A. 2011 Supp. 74-8746, and amendments thereto, for
8 operation of electronic gaming machines at racetrack gaming facilities;

9 (12) include a provision for the state to receive not less than 22% of
10 lottery gaming facility revenues, which shall be paid to the expanded
11 lottery act revenues fund established by K.S.A. 2011 Supp. 74-8768, and
12 amendments thereto;

13 (13) include a provision for 2% of lottery gaming facility revenues to
14 be paid to the problem gambling and addictions grant fund established by
15 K.S.A. 2011 Supp. 79-4805, and amendments thereto;

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

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

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

1 south central Kansas gaming zone and is located within a city, provide for
2 payment of an amount equal to 1% of the lottery gaming facility revenues
3 to the city in which the lottery gaming facility is located, an amount equal
4 to 1% of such revenues to the county in which such facility is located and
5 an amount equal to 1% of such revenues to the other county in such zone;

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

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

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

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

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

43 (k) A person who is the manager of the racetrack gaming facility in a

1 gaming zone shall not be eligible to be the manager of the lottery gaming
2 facility in the same zone.

3 (l) Management contracts authorized by this section may include
4 provisions relating to:

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

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

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

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

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

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

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

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

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

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

41 (o) A lottery gaming facility shall comply with any planning and
42 zoning regulations of the city or county in which it is to be located. The
43 executive director shall not contract with any prospective lottery gaming

1 facility manager for the operation and management of such lottery gaming
2 facility unless such manager first receives any necessary approval under
3 planning and zoning requirements of the city or county in which it is to be
4 located.

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

12 Sec. 6. K.S.A. 2011 Supp. 74-8741 is hereby amended to read as
13 follows: 74-8741. (a) The executive director of the Kansas lottery shall
14 negotiate a racetrack gaming facility management contract to place
15 electronic gaming machines at one parimutuel licensee location in each
16 gaming zone except the southwest Kansas gaming zone.

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

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

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

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

29 (1) The term of the contract;

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

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

42 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
43 2032, from (i) entering into management contracts for more than ~~three~~

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

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

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

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

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

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

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

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

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

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

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

43 Sec. 7. K.S.A. 2011 Supp. 74-8744 is hereby amended to read as

1 follows: 74-8744. (a) In accordance with rules and regulations adopted by
2 the commission, the executive director shall have general responsibility for
3 the implementation and administration of the provisions of this act relating
4 to racetrack gaming facility operations, including the responsibility to:

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

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

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

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

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

18 (D) rules and regulations and procedures for the accounting and
19 reporting of the payments required from racetrack gaming facility
20 managers under K.S.A. 2011 Supp. 74-8766, and amendments thereto,
21 including the calculations required for such payments.

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

27 (1) At least ~~600~~ 400, *but not more than 1,200* electronic gaming
28 machines shall be allocated to and placed at each racetrack gaming facility.

29 (2) The total number of electronic gaming machines allocated to and
30 placed at all racetrack gaming facilities in the state shall not exceed 2,800.

31 ~~Until lottery gaming facility management contracts for lottery gaming~~
32 ~~facilities in all gaming zones become binding, the total number of~~

33 ~~electronic gaming machines placed at all racetrack gaming facilities shall~~
34 ~~not exceed 2,200. When lottery gaming facility management contracts for~~

35 ~~lottery gaming facilities in all gaming zones have become binding, the~~
36 ~~lottery commission shall take privilege fee bids from the lottery gaming~~

37 ~~facility manager and racetrack gaming facility manager in each gaming~~
38 ~~zone for the remaining electronic gaming machines allocated to but not yet~~

39 ~~placed at the racetrack gaming facility in such zone. The minimum bid~~
40 ~~shall be a privilege fee of \$2,500 per electronic gaming machine. If the~~

41 ~~racetrack gaming facility manager submits the highest bid, the lottery~~
42 ~~commission shall place the remaining electronic gaming machines at the~~

43 ~~racetrack gaming facility. If the lottery gaming facility manager submits~~

1 ~~the highest bid, the commission shall not place any additional electronic~~
2 ~~gaming machines at the racetrack gaming facility.~~

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

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

13 Sec. 8. K.S.A. 2011 Supp. 74-8745 is hereby amended to read as
14 follows: 74-8745. (a) All information and data required to be furnished to
15 the Kansas lottery or the Kansas racing and gaming commission pursuant
16 to K.S.A. 2011 Supp. 74-8741 through 74-8747, and amendments thereto,
17 or which may otherwise be obtained, relative to the finances, earnings or
18 revenue, except the net electronic gaming machine income, of any vendor
19 shall be considered confidential and shall not be revealed in whole or in
20 part without permission of the vendor, except: (1) In the course of the
21 necessary administration of the Kansas expanded lottery act; (2) upon the
22 lawful order of a court of competent jurisdiction; or (3) to a duly
23 authorized law enforcement agency.

24 (b) All information and data pertaining to a vendor's criminal record,
25 family and background furnished to or obtained by the Kansas lottery or
26 Kansas racing and gaming commission pursuant to K.S.A. 2011 Supp. 74-
27 8741 through 74-8747 and 74-8751, and amendments thereto, from any
28 source shall be considered confidential and shall not be revealed, in whole
29 or part. Such information shall be released upon the lawful order of a court
30 of competent jurisdiction or to a duly authorized law enforcement agency.

31 (c) Notice of the contents of any information released, except to a
32 duly authorized law enforcement agency pursuant to this section, shall be
33 given to any applicant, certificate holder or vendor in a manner prescribed
34 by the rules and regulations adopted by the commission.

35 Sec. 9. K.S.A. 2011 Supp. 74-8746 is hereby amended to read as
36 follows: 74-8746. (a) Except as provided in subsection (b):

37 (1) No electronic gaming machines shall be operated at a parimutuel
38 licensee location in Sedgwick county unless, during the first full calendar
39 year and each year thereafter in which electronic gaming machines are
40 operated at such location, the parimutuel licensee conducts at such location
41 at least 100 live greyhound races each calendar week for the number of
42 weeks raced during calendar year 2003 with at least 13 live races
43 conducted each day for not less than five days per week.

1 (2) (A) *Electronic gaming machines may be operated at a parimutuel*
2 *licensee location in Wyandotte county during the first year there is a valid*
3 *license issued for such location pursuant to K.S.A. 74-8801 et seq., and*
4 *amendments thereto, regardless of whether any live horse or greyhound*
5 *races are conducted at such location. During the second consecutive year*
6 *there is a valid license issued for such location pursuant to K.S.A. 74-8801*
7 *et seq., and amendments thereto, and each such year thereafter, electronic*
8 *gaming machines shall be operated in accordance with the provisions of*
9 *subparagraph (B).*

10 (B) No electronic gaming machines shall be operated at a parimutuel
11 licensee location in Wyandotte county unless, ~~during the first full calendar~~
12 ~~year and each year thereafter in which electronic gaming machines are~~
13 ~~operated at such location,:~~

14 (i) *During the second consecutive year there is a valid license issued*
15 *for such location pursuant to K.S.A. 74-8801 et seq., and amendments*
16 *thereto, the parimutuel licensee conducts live horse racing programs for at*
17 *least 60 28 days, with at least 10 live races conducted each program, and*
18 *must offer and make a reasonable effort to conduct a minimum number of*
19 *three live races restricted for quarter horses each day and seven live*
20 *thoroughbred races each day, of which not less than two races each day*
21 *shall be limited to registered Kansas-bred horses apportioned in the same*
22 *ratio that live races are offered, except that the licensee shall not be*
23 *required to conduct the second live race restricted to Kansas-bred horses*
24 *unless there are at least seven qualified entries for such race, and with at*
25 *least 100 live greyhound races each calendar week for at least the same*
26 *number of weeks raced during calendar year 2003, with at least 13 live*
27 *races conducted each day for not less than five days per week;*

28 (ii) *during the third consecutive year there is a valid license issued*
29 *for such location pursuant to K.S.A. 74-8801 et seq., and amendments*
30 *thereto, and each such year thereafter, the parimutuel licensee conducts*
31 *live horse racing programs for at least 60 days, with at least 10 live races*
32 *conducted each program, and must offer and make a reasonable effort to*
33 *conduct a minimum number of three live races restricted for quarter*
34 *horses each day and seven live thoroughbred races each day, of which not*
35 *less than two races each day shall be limited to registered Kansas-bred*
36 *horses apportioned in the same ratio that live races are offered, except*
37 *that the licensee shall not be required to conduct the second live race*
38 *restricted to Kansas-bred horses unless there are at least seven qualified*
39 *entries for such race.*

40 (3) No electronic gaming machines shall be operated at a parimutuel
41 licensee location in Crawford county unless, during the first full calendar
42 year and each year thereafter in which electronic gaming machines are
43 operated at such location, the parimutuel licensee conducts at such location

1 at least 85 live greyhound races each calendar week for the number of
2 weeks raced during calendar year 2003 in Sedgwick county, with at least
3 12 live races conducted each day for not less than five days per week.

4 (4) If a parimutuel licensee has not held live races pursuant to a
5 schedule approved by the Kansas racing and gaming commission in the
6 preceding 12 months, the Kansas racing and gaming commission shall
7 hold a hearing to determine the number of days of live racing required for
8 the remaining days of the first calendar year of operation to qualify for
9 operation of electronic gaming machines. At such hearing, the commission
10 shall receive testimony and evidence from affected breed groups, the
11 licensee and others, as the Kansas racing and gaming commission deems
12 appropriate concerning the schedule of live race days. The operation of
13 electronic gaming machines shall not commence more than 90 days prior
14 to the start of live racing at such facility.

15 (b) The Kansas racing and gaming commission may not grant
16 exceptions to the requirements of subsection (a) for a parimutuel licensee
17 conducting live racing unless such exception is in the form of an
18 agreement which: (1) Is between the parimutuel licensee and the affected
19 recognized greyhound or recognized horsemen's group, as defined in
20 K.S.A. 74-8802, and amendments thereto; (2) has been approved by the
21 appropriate official breed registering agencies; and (3) has been submitted
22 to and approved by the commission. In the case of emergencies, weather
23 related issues or immediate circumstances beyond the control of the
24 licensee, the Kansas racing and gaming commission may grant an
25 exception.

26 Sec. 10. K.S.A. 2011 Supp. 74-8747 is hereby amended to read as
27 follows: 74-8747. (a) *For the northeast gaming zone, the net electronic*
28 *gaming machine income from a racetrack gaming facility shall be*
29 *distributed as follows:*

30 (1) (A) *To the racetrack gaming facility manager during the first and*
31 *second years the racetrack gaming facility is in operation, an amount*
32 *equal to ~~25%~~ 65% of net electronic gaming machine income;*

33 (B) *to the racetrack gaming facility manager during the third year*
34 *the racetrack gaming facility is in operation, an amount equal to 63% of*
35 *net electronic gaming machine income; and*

36 (C) *to the racetrack gaming facility manager during the fourth year*
37 *the racetrack gaming facility is in operation and each year thereafter, an*
38 *amount equal to 61% of net electronic gaming machine income;*

39 (2) (A) ~~7%~~ *During the first and second years the racetrack gaming*
40 *facility is in operation, 8% of net electronic gaming machine income*
41 *derived from electronic gaming machines located at racetrack gaming*
42 *facilities licensed to conduct horse races shall be credited to the live horse*
43 *racing purse supplement fund established by K.S.A. 2011 Supp. 74-8767,*

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

8 *(B) during the third year the racetrack gaming facility is in*
9 *operation, 10% of net electronic gaming machine income derived from*
10 *electronic gaming machines located at racetrack gaming facilities*
11 *licensed to conduct horse races shall be credited to the live horse racing*
12 *purse supplement fund established by K.S.A. 2011 Supp. 74-8767, and*
13 *amendments thereto; and*

14 *(C) during the fourth year the racetrack gaming facility is in*
15 *operation and each year thereafter, 12% of net electronic gaming machine*
16 *income derived from electronic gaming machines located at racetrack*
17 *gaming facilities licensed to conduct horse races shall be credited to the*
18 *live horse racing purse supplement fund established by K.S.A. 2011 Supp.*
19 *74-8767, and amendments thereto;*

20 (3) (A) ~~7%~~ *During the first and second years the racetrack gaming*
21 *facility is in operation, 8% of net electronic gaming machine income*
22 *derived from electronic gaming machines located at racetrack gaming*
23 *facilities licensed to conduct greyhound races shall be credited to the live*
24 *greyhound racing purse supplement fund established by K.S.A. 2011*
25 *Supp. 74-8767, and amendments thereto, except that the amount of net*
26 *electronic gaming machine income credited to the fund during any fiscal*
27 *year from electronic gaming machines at a racetrack gaming facility shall*
28 *not exceed an amount equal to the average of \$3,750 per electronic gaming*
29 *machine at each location and any moneys in excess of such amount shall*
30 *be distributed between the state and the racetrack gaming facility manager*
31 *in accordance with the racetrack gaming facility management contract;*

32 *(B) during the third year the racetrack gaming facility is in*
33 *operation, 10% of net electronic gaming machine income derived from*
34 *electronic gaming machines located at racetrack gaming facilities*
35 *licensed to conduct greyhound races shall be credited to the live*
36 *greyhound racing purse supplement fund established by K.S.A. 2011 Supp.*
37 *74-8767, and amendments thereto; and*

38 *(C) during the fourth year the racetrack gaming facility is in*
39 *operation and each year thereafter, 12% of net electronic gaming machine*
40 *income derived from electronic gaming machines located at racetrack*
41 *gaming facilities licensed to conduct greyhound races shall be credited to*
42 *the live greyhound racing purse supplement fund established by K.S.A.*
43 *2011 Supp. 74-8767, and amendments thereto;*

1 (4) (A) ~~if the racetrack gaming facility is located in the northeast~~
 2 ~~Kansas gaming zone and is not located within a city, include a provision~~
 3 ~~for payment of an amount equal to 3% 2% of the racetrack gaming facility~~
 4 ~~revenues net electronic gaming machine income to the county in which the~~
 5 ~~racetrack gaming facility is located; or~~

6 (B) ~~if the racetrack gaming facility is located in the northeast Kansas~~
 7 ~~gaming zone and is located within a city, include provision for payment of~~
 8 ~~an amount equal to 1.5% 1% of the racetrack gaming facility revenues net~~
 9 ~~electronic gaming machine income to the city in which the racetrack~~
 10 ~~gaming facility is located and an amount equal to 1.5% 1% of such~~
 11 ~~revenues income to the county in which such facility is located;~~

12 (5) (A) ~~if the racetrack gaming facility is located in the southeast or~~
 13 ~~south central Kansas gaming zone and is not located within a city, include~~
 14 ~~a provision for payment of an amount equal to 2% of the racetrack gaming~~
 15 ~~facility revenues [*] to the county in which the racetrack gaming facility is~~
 16 ~~located and an amount equal to 1% of such revenues to the other county in~~
 17 ~~such zone; or (B) if the racetrack gaming facility is located in the southeast~~
 18 ~~or south central Kansas gaming zone and is located within a city, provide~~
 19 ~~for payment of an amount equal to 1% of the racetrack gaming facility~~
 20 ~~revenues [*] to the city in which the racetrack gaming facility is located;~~
 21 ~~an amount equal to 1% of such revenues to the county in which such~~
 22 ~~facility is located and an amount equal to 1% of such revenues to the other~~
 23 ~~county in such zone;~~

24 (6) (5) 2% of net electronic gaming machine income shall be credited
 25 to the problem gambling and addictions grant fund established by K.S.A.
 26 2011 Supp. 79-4805, and amendments thereto;

27 (7) (6) 1% of net electronic gaming machine income shall be credited
 28 to the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
 29 and amendments thereto; and

30 (8) (7) 40% 22% of net electronic gaming machine income shall be
 31 credited to the expanded lottery act revenues fund; and

32 (9) ~~15% of electronic gaming machine income shall be used for~~
 33 ~~gaming expenses, subject to agreement between the Kansas lottery and the~~
 34 ~~racetrack gaming facility manager.~~

35 (b) *For the south central and southeast gaming zones, the net*
 36 *electronic gaming machine income from a racetrack gaming facility shall*
 37 *be distributed as follows:*

38 (1) (A) *To the racetrack gaming facility manager during the first and*
 39 *second years the racetrack gaming facility is in operation, an amount*
 40 *equal to 65% of net electronic gaming machine income;*

41 (B) *to the racetrack gaming facility manager during the third year*
 42 *the racetrack gaming facility is in operation, an amount equal to 63% of*
 43 *net electronic gaming machine income; and*

1 (C) to the racetrack gaming facility manager during the fourth year
2 the racetrack gaming facility is in operation and each year thereafter, an
3 amount equal to 61% of net electronic gaming machine income;

4 (2) (A) During the first and second years the racetrack gaming
5 facility is in operation, 8% of net electronic gaming machine income
6 derived from electronic gaming machines located at racetrack gaming
7 facilities licensed to conduct horse races shall be credited to the live horse
8 racing purse supplement fund established by K.S.A. 2011 Supp. 74-8767,
9 and amendments thereto;

10 (B) during the third year the racetrack gaming facility is in
11 operation, 10% of net electronic gaming machine income derived from
12 electronic gaming machines located at racetrack gaming facilities
13 licensed to conduct horse races shall be credited to the live horse racing
14 purse supplement fund established by K.S.A. 2011 Supp. 74-8767, and
15 amendments thereto; and

16 (C) during the fourth year the racetrack gaming facility is in
17 operation and each year thereafter, 12% of net electronic gaming machine
18 income derived from electronic gaming machines located at racetrack
19 gaming facilities licensed to conduct horse races shall be credited to the
20 live horse racing purse supplement fund established by K.S.A. 2011 Supp.
21 74-8767, and amendments thereto;

22 (3) (A) During the first and second years the racetrack gaming
23 facility is in operation, 8% of net electronic gaming machine income
24 derived from electronic gaming machines located at racetrack gaming
25 facilities licensed to conduct greyhound races shall be credited to the live
26 greyhound racing purse supplement fund established by K.S.A. 2011 Supp.
27 74-8767, and amendments thereto;

28 (B) during the third year the racetrack gaming facility is in
29 operation, 10% of net electronic gaming machine income derived from
30 electronic gaming machines located at racetrack gaming facilities
31 licensed to conduct greyhound races shall be credited to the live
32 greyhound racing purse supplement fund established by K.S.A. 2011 Supp.
33 74-8767, and amendments thereto; and

34 (C) during the fourth year the racetrack gaming facility is in
35 operation and each year thereafter, 12% of net electronic gaming machine
36 income derived from electronic gaming machines located at racetrack
37 gaming facilities licensed to conduct greyhound races shall be credited to
38 the live greyhound racing purse supplement fund established by K.S.A.
39 2011 Supp. 74-8767, and amendments thereto;

40 (4) (A) if the racetrack gaming facility is not located within a city,
41 include a provision for payment of an amount equal to 1% of the net
42 electronic gaming machine income to the county in which the racetrack
43 gaming facility is located and an amount equal to 1% of such income to

1 *the other county in such zone; or*

2 *(B) if the racetrack gaming facility is located within a city, provide*
3 *for payment of an amount equal to 1% of the net electronic gaming*
4 *machine income to the city in which the racetrack gaming facility is*
5 *located, an amount equal to 0.5% of such income to the county in which*
6 *such facility is located and an amount equal to 0.5% of such income to the*
7 *other county in such zone;*

8 *(5) 2% of net electronic gaming machine income shall be credited to*
9 *the problem gambling and addictions grant fund established by K.S.A.*
10 *2011 Supp. 79-4805, and amendments thereto;*

11 *(6) 1% of the net electronic gaming machine income shall be credited*
12 *to the development and promotions fund of the department of wildlife,*
13 *parks and tourism for the purposes of promoting tourism;*

14 *(7) 1% of net electronic gaming machine income shall be credited to*
15 *the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,*
16 *and amendments thereto; and*

17 *(8) 22% of net electronic gaming machine income shall be credited to*
18 *the expanded lottery act revenues fund.*

19 ~~(b)~~ *(c) A racetrack gaming facility management contract may include*
20 *provisions for a parimutuel licensee or any other entity to pay the*
21 *parimutuel licensee's expenses related to electronic gaming machines, as*
22 *the executive director deems appropriate, subject to the requirements of*
23 *subsection (a)(9).*

24 *Sec. 11. K.S.A. 2011 Supp. 74-8751 is hereby amended to read as*
25 *follows: 74-8751. The Kansas racing and gaming commission, through*
26 *rules and regulations, shall establish:*

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

1 *a publicly traded company, the certification requirement shall provide a*
2 *procedure for issuance of waivers of the background investigation*
3 *requirement by the executive director of the Kansas racing and gaming*
4 *commission. Any person convicted of any felony, a crime involving*
5 *gambling or a crime of moral turpitude prior to applying for a certificate*
6 *hereunder or at any time thereafter shall be deemed unfit. The Kansas*
7 *racing and gaming commission shall conduct the security, fitness and*
8 *background checks required pursuant to this subsection. Certification*
9 *pursuant to this subsection shall not be assignable or transferable;*

10 (b) a certification requirement, and enforcement procedure, for those
11 persons, including electronic gaming machine manufacturers, technology
12 providers and computer system providers, who propose to contract with a
13 lottery gaming facility manager, a racetrack gaming facility manager or the
14 state for the provision of goods or services related to a lottery gaming
15 facility or racetrack gaming facility, including management services. Such
16 certification requirements shall include compliance with such security,
17 fitness and background investigations and standards of officers, directors,
18 key gaming employees and persons directly or indirectly owning a ~~0.5%~~
19 *5% or more interest in such entity as the executive director of the Kansas*
20 *racing and gaming commission deems necessary to determine whether*
21 *such person's reputation, habits and associations pose a threat to the public*
22 *interest of the state or to the reputation of or effective regulation and*
23 *control of the lottery gaming facility or racetrack gaming facility. In the*
24 *case of a publicly traded company subject to the jurisdiction of the United*
25 *States securities and exchange commission or equivalent foreign securities*
26 *law, such certification requirements shall require such security, fitness and*
27 *background investigations and standards of officers, directors, key gaming*
28 *employees and persons directly or indirectly owning a 5% or more interest*
29 *in such entity, and specify that such publicly traded company annually*
30 *provide a list of all identifiable shareholders. In the case of institutional*
31 *investors in a publicly traded company, the certification requirement shall*
32 *provide a procedure for issuance of waivers of the background*
33 *investigation requirement by the executive director of the Kansas racing*
34 *and gaming commission. Any person convicted of any felony, a crime*
35 *involving gambling or a crime of moral turpitude prior to applying for a*
36 *certificate hereunder or at any time thereafter shall be deemed unfit. If the*
37 *executive director of the racing and gaming commission determines the*
38 *certification standards of another state are comprehensive, thorough and*
39 *provide similar adequate safeguards, the executive director may certify an*
40 *applicant already certified in such state without the necessity of a full*
41 *application and background check. The Kansas racing and gaming*
42 *commission shall conduct the security, fitness and background checks*
43 *required pursuant to this subsection. Certification pursuant to this*

1 subsection shall not be assignable or transferable;

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

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

19 Sec. 12. K.S.A. 74-8826 is hereby amended to read as follows: 74-
20 8826. (a) There is hereby created the state racing fund in the state treasury.

21 (b) Except as otherwise provided by K.S.A. ~~74-8824 and 74-8835~~,
22 and amendments thereto, all taxes on parimutuel wagering, ~~admissions tax~~,
23 application fees, license fees and fines which are collected by the
24 commission shall be remitted to the state treasurer in accordance with the
25 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
26 each such remittance, the state treasurer shall deposit the entire amount in
27 the state treasury to the credit of the state racing fund. All moneys credited
28 to such fund shall be expended or transferred only for the purposes and in
29 the manner provided by this act. Expenditures from such fund shall be
30 made in accordance with appropriation acts upon warrants of the director
31 of accounts and reports issued pursuant to vouchers approved by the
32 chairperson of the commission or a person designated by the chairperson.

33 (c) Except as otherwise provided by this act, all operating expenses of
34 the commission and moneys for the promotion of horse and greyhound
35 racing appropriated by the legislature shall be paid from the state racing
36 fund. On January 15, 1990, and on the 15th day of each month thereafter,
37 and at such other times as provided by law, the director of accounts and
38 reports shall transfer to the state gaming revenues fund created by K.S.A.
39 79-4801, and amendments thereto, any moneys in the state racing fund on
40 each such date in excess of the amount required for operating expenditures
41 and an adequate fund balance, taking into consideration encumbrances,
42 anticipated revenues, revenue and expenditure experience to date and other
43 relevant factors, as determined by the executive director and the director of

1 accounts and reports.

2 (d) Any appropriation or transfer of state general fund moneys for the
 3 operation of the commission or the office of the executive director and any
 4 other expenses incurred in connection with the administration and
 5 enforcement of this act shall be considered a loan and shall be repaid with
 6 interest to the state general fund in accordance with appropriation acts.
 7 Such loan shall not be considered an indebtedness or debt of the state
 8 within the meaning of section 6 of article 11 of the constitution of the state
 9 of Kansas. Such loan shall bear interest at a rate equal to the rate
 10 prescribed by K.S.A. 75-4210, and amendments thereto, for inactive
 11 accounts of the state effective on the first day of the month during which
 12 the appropriation or transfer takes effect.

13 (e) At the time of repayment of a loan pursuant to subsection (d), the
 14 executive director shall certify to the director of accounts and reports the
 15 amount to be repaid and any interest due thereon. Upon receipt of such
 16 certification, the director of accounts and reports shall promptly transfer
 17 the amount certified from the state racing fund to the state general fund.

18 Sec. 13. K.S.A. 2011 Supp. 74-8831 is hereby amended to read as
 19 follows: 74-8831. (a) There is hereby created in the state treasury the
 20 Kansas greyhound breeding development fund to which moneys shall be
 21 credited as provided by this act. Expenditures from such fund shall be
 22 made in accordance with appropriation acts upon warrants of the director
 23 of accounts and reports issued pursuant to vouchers approved by the
 24 chairperson of the commission or a person designated by the chairperson.

25 (b) Moneys credited to the fund shall be expended as follows:

26 ~~(1) An amount equal to 15% of all moneys credited to the fund during~~
 27 ~~a fiscal year shall be transferred by the director of accounts and reports on~~
 28 ~~June 30 of each year to the greyhound tourism fund created by subsection~~
 29 ~~(e);~~

30 ~~(2)(1) An amount equal to that is 35% of all moneys credited to the~~
 31 ~~fund during a fiscal year or \$100,000, whichever is less, shall be used for~~
 32 ~~research conducted within the state of Kansas relating to the prevention of~~
 33 ~~injury to and disease of greyhounds;~~

34 ~~(3)(2) subject to the provisions of subsection (e), an amount equal to~~
 35 ~~50% the remaining balance of all moneys credited to the fund during a~~
 36 ~~fiscal year, less the amount determined by the commission pursuant to~~
 37 ~~subsection (b)(4)(b)(3), shall be used by the racetrack facilities where~~
 38 ~~derived to supplement purses and stake races for Kansas-whelped~~
 39 ~~greyhounds as recommended by the official breed registering agency and~~
 40 ~~as approved by the commission;~~

41 ~~(4)(3) an amount determined by the commission, but not to exceed~~
 42 ~~\$30,000 of the moneys credited to the fund during a fiscal year, shall be~~
 43 ~~used to pay a portion of the administrative costs of the official registering~~

1 agency designated by the commission pursuant to K.S.A. 74-8832, and
2 amendments thereto; and

3 ~~(5)~~(4) as provided by subsection (e).

4 (c) Moneys credited to the Kansas greyhound breeding development
5 fund shall be used only for the benefit of greyhounds.

6 (d) There is hereby created in the state treasury the greyhound
7 tourism fund. Moneys in such fund shall be used only for the promotion of
8 greyhound-related tourism. Expenditures from such fund shall be made in
9 accordance with appropriation acts upon warrants of the director of
10 accounts and reports issued pursuant to vouchers approved by the
11 secretary of commerce or a person designated by the secretary.

12 (e) If live greyhound racing ceases at a racetrack facility for a period
13 of 60 continuous days or the commission finds that live greyhound racing
14 is likely to cease at a racetrack facility for a period of 60 continuous days,
15 any undisbursed moneys that would otherwise be expended pursuant to
16 subsection ~~(b)(3)~~(b)(2) shall be expended in accordance with the
17 following:

18 (1) The commission shall compile a roster of Kansas-whelped
19 greyhounds in each licensed kennel on the day of racing at the racetrack
20 facility prior to the day of cessation of racing ~~€, hereinafter referred to as~~
21 the "census date"), except that any Kansas-whelped greyhound that has not
22 been in residence in the kennel and on the kennel's active list for five of
23 the 14 days immediately preceding the census date shall not be included in
24 the roster.

25 (2) The undisbursed moneys shall be divided equally among the
26 qualified Kansas-whelped greyhounds identified pursuant to the census
27 described in subsection (e)(1).

28 (3) The funds awarded to each qualified Kansas-whelped greyhound
29 shall be divided equally between the licensed owner of the Kansas-
30 whelped greyhound and the licensed kennel owner in whose kennel the
31 Kansas-whelped greyhound was resident. If such a greyhound or kennel
32 has multiple owners, the owner's share and kennel owner's share shall be
33 prorated in accordance with the ownership percentages of each part owner
34 of such greyhound or kennel, as appears in the commission's multiple
35 ownership or kennel registration records.

36 (4) Payments to Kansas-whelped greyhound owners and kennel
37 owners pursuant to this subsection shall be made directly from the Kansas
38 greyhound breeding development fund to such greyhound owners and
39 kennel owners.

40 Sec. 14. K.S.A. 74-8836 is hereby amended to read as follows: 74-
41 8836. (a) Any organization licensee that conducts at least 150 days of live
42 racing during a calendar year, *or is in compliance with the provisions of*
43 *K.S.A. 2011 Supp. 74-8746, and amendments thereto*, or a fair association

1 that conducts fewer than ~~22~~ 40 days of live racing during a calendar year
2 may apply to the commission for a simulcasting license to display
3 simulcast horse or greyhound races and to conduct intertrack parimutuel
4 wagering thereon. If the organization licensee conducts races at a racetrack
5 facility that is owned by a facility owner licensee, both licensees shall join
6 in the application. ~~A simulcasting license granted to a fair association that~~
7 ~~conducts fewer than 22 days of live racing shall restrict the fair~~
8 ~~association's display of simulcast races to a number of days, including~~
9 ~~days on which it conducts live races, equal to not more than twice the~~
10 ~~number of days on which it conducts live races.~~

11 (b) (1) A simulcasting license granted to an organization licensee
12 other than a fair association shall authorize the display of simulcast races
13 at the racetrack facility where the live races are conducted so long as: (A)
14 The licensee conducts at least eight live races per day and an average of 10
15 live races per day per week; or (B) *the licensee is in compliance with the*
16 *provisions of K.S.A. 2011 Supp. 74-8746, and amendments thereto.* ~~If a~~
17 ~~simulcasting~~ *If the licensee is not in compliance with the provisions of*
18 *K.S.A. 2011 Supp. 74-8746, and amendments thereto, and if the licensee*
19 *conducts live horse races on a day when simulcast races are displayed by*
20 *the licensee and the licensee conducts fewer than an average of 10 live*
21 *horse races per day per week, not less than 80% of the races on which*
22 *wagers are taken by the licensee during such week shall be live races*
23 *conducted by the licensee unless approved by the recognized horsemen's*
24 *group or upon a finding by the commission that the organization licensee*
25 *was unable to do so for reasonable cause.* ~~If a simulcast~~ *If the licensee is*
26 *not in compliance with the provisions of K.S.A. 2011 Supp. 74-8746, and*
27 *amendments thereto, and if the licensee conducts live greyhound races on*
28 *a day when simulcast races are displayed by the licensee and the licensee*
29 *schedules fewer than 13 live greyhound races during a performance on*
30 *such day, not less than 80% of the races on which wagers are taken by the*
31 *licensee during such performance shall be live races conducted by the*
32 *licensee.*

33 (2) A simulcasting license granted to a fair association shall authorize
34 the display of simulcast races at the racetrack facility where the races are
35 ~~conducted only if live races are scheduled for two or more days of the~~
36 ~~same calendar week, except that the licensee may conduct simulcast races~~
37 ~~in the week immediately before and immediately after a live meeting if the~~
38 ~~total number of days on which simulcast races are displayed does not~~
39 ~~exceed the total authorized in subsection (a). In no case shall the live meet~~
40 ~~or simulcast races allowed under this subsection exceed 10 consecutive~~
41 ~~weeks. For purposes of this subsection, a calendar week shall be measured~~
42 ~~from Monday through the following Sunday.~~

43 (3) ~~Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2),~~

1 a fair association may apply to the commission for not more than five
2 additional days of simulcasting of special events. In addition, the
3 commission may authorize a fair association to display additional
4 simulcast races but, if such fair association is less than 100 miles from an
5 organization licensee that is not a fair association, it also shall secure
6 written consent from that organization licensee.

7 ~~(4) Notwithstanding the provisions of subsection (b)(1), if an~~
8 ~~emergency causes the cancellation of all or any live races scheduled for a~~
9 ~~day or performance by a simulcasting licensee, the commission or the~~
10 ~~commission's designee may authorize the licensee to display any simulcast~~
11 ~~races previously scheduled for such day or performance.~~

12 ~~(5) Notwithstanding the provisions of subsection (b)(1), the~~
13 ~~commission may authorize the licensee to display simulcast special racing~~
14 ~~events as designated by the commission.~~

15 (c) The application for a simulcasting license shall be filed with the
16 commission at a time and place prescribed by rules and regulations of the
17 commission. The application shall be in a form and include such
18 information as the commission prescribes.

19 (d) To qualify for a simulcasting license the applicant shall:

20 (1) Comply with the interstate horse racing act of 1978 (15 U.S.C. §
21 3001 *et seq.*) as in effect December 31, 1991;

22 (2) submit with the application a written approval of the proposed
23 simulcasting schedule signed by: (A) The recognized horsemen's group for
24 the track, if the applicant is licensed to conduct only horse races; (B) the
25 recognized greyhound owners' group, if the applicant is licensed to
26 conduct only greyhound races and only greyhound races are to be
27 simulcast; (C) both the recognized greyhound owners' group and a
28 recognized horsemen's group, if the applicant is licensed to conduct only
29 greyhound races and horse races are to be simulcast; (D) the recognized
30 greyhound owners' group, if the applicant is licensed to conduct both
31 greyhound and horse races, only greyhound races are to be simulcast and
32 races are to be simulcast only while the applicant is conducting live
33 greyhound races; (E) the recognized horsemen's group for the track, if the
34 applicant is licensed to conduct both greyhound and horse races, only
35 horse races are to be simulcast and races are to be simulcast only while the
36 applicant is conducting live horse races; or (F) both the recognized
37 greyhound owners' group and the recognized horsemen's group for the
38 track, if the applicant is licensed to conduct both greyhound races and
39 horse races and horse races are to be simulcast while the applicant is
40 conducting live greyhound races or greyhound races are to be simulcast
41 while the applicant is conducting live horse races; and

42 (3) submit, in accordance with rules and regulations of the
43 commission and before the simulcasting of a race, a written copy of each

1 contract or agreement which the applicant proposes to enter into with
2 regard to such race, and any proposed modification of any such contract or
3 agreement.

4 (e) The term of a simulcasting license shall be one year.

5 (f) A simulcasting licensee may apply to the commission or its
6 designee for changes in the licensee's approved simulcasting schedule if
7 such changes are approved by the respective recognized greyhound
8 owners' group or recognized horsemen's group needed throughout the term
9 of the license. Application shall be made upon forms furnished by the
10 commission and shall contain such information as the commission
11 prescribes.

12 (g) Except as provided by subsection (j), the takeout for simulcast
13 horse and greyhound races shall be the same as it is for the live horse and
14 greyhound races conducted during the current or next live race meeting at
15 the racetrack facility where the simulcast races are displayed. For
16 simulcast races the tax imposed on amounts wagered shall be as provided
17 by K.S.A. 74-8823, and amendments thereto. Of the balance of the takeout
18 remaining after deduction of taxes, an amount equal to a percentage, to be
19 determined by the commission, of the gross sum wagered on simulcast
20 races shall be used for purses, as follows:

21 (1) For greyhound races conducted by the licensee, if the simulcast
22 race is a greyhound race and the licensee conducts only live greyhound
23 races;

24 (2) for horse races conducted by the licensee, if the simulcast race is a
25 horse race and the licensee conducts only live horse races;

26 (3) for horse races and greyhound races, as determined by both the
27 recognized horsemen's group and the recognized greyhound owners'
28 group, if the simulcast race is a greyhound race and the licensee does not
29 conduct or is not currently conducting live greyhound races; or

30 (4) for horse races and greyhound races, as determined by both the
31 recognized horsemen's group and the recognized greyhound owners'
32 group, if the simulcast is a horse race and the licensee does not conduct or
33 is not currently conducting live horse races. That portion of simulcast
34 purse money determined to be used for horse purses shall be apportioned
35 by the commission to the various horse race meetings held in any calendar
36 year based upon the number of live horse race dates comprising such horse
37 race meetings in the preceding calendar year.

38 (h) Except as provided by subsection (j):

39 (1) If a simulcasting licensee has a license to conduct live horse races
40 and the licensee displays a simulcast horse race: (A) All breakage proceeds
41 shall be remitted by the licensee to the commission not later than the 15th
42 day of the month following the race from which the breakage is derived
43 and the commission shall remit any such proceeds received to the state

1 treasurer in accordance with the provisions of K.S.A. 75-4215, and
2 amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury to the credit
4 of the Kansas horse breeding development fund created by K.S.A. 74-
5 8829, and amendments thereto; and (B) all unclaimed ticket proceeds shall
6 be remitted by the licensee to the commission on the 61st day after the end
7 of the calendar year and the commission shall remit any such proceeds
8 received to the state treasurer in accordance with the provisions of K.S.A.
9 75-4215, and amendments thereto. Upon receipt of each such remittance,
10 the state treasurer shall deposit the entire amount in the state treasury to
11 the credit of the Kansas horse breeding development fund created by
12 K.S.A. 74-8829, and amendments thereto.

13 (2) If a simulcasting licensee has a license to conduct live greyhound
14 races and the licensee displays a simulcast greyhound race, breakage and
15 unclaimed winning ticket proceeds shall be distributed in the manner
16 provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for
17 breakage and unclaimed winning ticket proceeds from live greyhound
18 races.

19 (3) If a simulcasting licensee has a license to conduct live racing of
20 only horses and the licensee displays a simulcast greyhound race,
21 unclaimed winning ticket proceeds shall be distributed in the manner
22 provided by K.S.A. 74-8822, and amendments thereto, for unclaimed
23 winning ticket proceeds from live greyhound races. Breakage for such
24 races shall be distributed for use to benefit greyhound racing as determined
25 by the commission.

26 (4) If a simulcasting licensee has a license to conduct live racing of
27 only greyhounds and the licensee displays a simulcast horse race: (A) All
28 breakage proceeds shall be remitted by the licensee to the commission not
29 later than the 15th day of the month following the race from which the
30 breakage is derived and the commission shall remit any such proceeds
31 received to the state treasurer in accordance with the provisions of K.S.A.
32 75-4215, and amendments thereto. Upon receipt of each such remittance,
33 the state treasurer shall deposit the entire amount in the state treasury to
34 the credit of the Kansas horse breeding development fund created by
35 K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket
36 proceeds shall be remitted by the licensee to the commission on the 61st
37 day after the end of the calendar year and the commission shall remit any
38 such proceeds received to the state treasurer in accordance with the
39 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
40 each such remittance, the state treasurer shall deposit the entire amount in
41 the state treasury to the credit of the Kansas horse breeding development
42 fund created by K.S.A. 74-8829, and amendments thereto.

43 (i) The commission may approve a request by two or more

1 simulcasting licensees to combine wagering pools within the state of
2 Kansas pursuant to rules and regulations adopted by the commission.

3 (j) (1) The commission may authorize any simulcasting licensee to
4 participate in an interstate combined wagering pool with one or more other
5 racing jurisdictions.

6 (2) If a licensee participates in an interstate pool, the licensee may
7 adopt the takeout of the host jurisdiction or facility. The amount and
8 manner of paying purses from the takeout in an interstate pool shall be as
9 provided by subsection (g).

10 (3) The tax imposed on amounts wagered in an interstate pool shall
11 be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel
12 taxes may not be imposed on any amounts wagered in an interstate
13 combined wagering pool other than amounts wagered within this
14 jurisdiction.

15 (4) Breakage for interstate combined wagering pools shall be
16 calculated in accordance with the statutes and rules and regulations of the
17 host jurisdiction and shall be allocated among the participating
18 jurisdictions in a manner agreed to among the jurisdictions. Breakage
19 allocated to this jurisdiction shall be distributed as provided by subsection
20 (h).

21 (5) Upon approval of the respective recognized greyhound owners'
22 group or recognized horsemen's group, the commission may permit an
23 organization licensee to simulcast to other racetrack facilities or off-track
24 wagering or intertrack wagering facilities in other jurisdictions one or
25 more races conducted by such licensee, use one or more races conducted
26 by such licensee for an intrastate combined wagering pool or use one or
27 more races conducted by such licensee for an interstate combined
28 wagering pool at off-track wagering or intertrack wagering locations
29 outside the commission's jurisdiction and may allow parimutuel pools in
30 other jurisdictions to be combined with parimutuel pools in the
31 commission's jurisdiction for the purpose of establishing an interstate
32 combined wagering pool.

33 (6) The participation by a simulcasting licensee in a combined
34 interstate wagering pool does not cause that licensee to be considered to be
35 doing business in any jurisdiction other than the jurisdiction in which the
36 licensee is physically located.

37 (k) If the organization licensee, facility owner licensee if any and the
38 recognized horsemen's group or recognized greyhound owners' group are
39 unable to agree concerning a simulcasting application, the matter may be
40 submitted to the commission for determination at the written request of
41 any party in accordance with rules and regulations of the commission.

42 (l) This section shall be part of and supplemental to the Kansas
43 parimutuel racing act.

1 Sec. 15. K.S.A. 74-8824, 74-8826 and 74-8836 and K.S.A. 2011
2 Supp. 74-8734, 74-8741, 74-8744, 74-8745, 74-8746, 74-8747, 74-8751
3 and 74-8831 are hereby repealed.

4 Sec. 16. This act shall take effect and be in force from and after its
5 publication in the Kansas register.