

Approved: 4-8-10
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 8:15 a.m. on March 24, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Final Action:

SB 401 - Amendments to the Kansas expanded lottery act

HB 2206 - Amendments to late term and partial birth abortion law

HB 2180 - S Sub for H 2180 by Committee on Federal and State Affairs – Amendments to the Kansas expanded lottery act

Staff updated the committee on the bill.

Staff provided a balloon. (Attachment 1) Staff stating that there is a technical amendment to Sec. 9 KSA 2009 Supp. 74-8751, page 14, line 39 inserting after commission, “or equivalent foreign securities law”.

Senator Francisco moved to limit the number of electronic gaming machines allocated at each racetrack gaming facility, Sec. 7 on Page 11, line 30 striking 1,500 and inserting 1,200. Senator Morris seconded the motion. The motion carried.

Senator Francisco moved to amend Sec. 8, on page 12 line 19, inserting “not more than” 58%, and on page 13, line 28, inserting “not less than” 22%, and the technical amendment. Senator Morris seconded the motion. The motion carried.

Senator Owens moved to strike the language of **HB 2206** and insert the language of SB 401 as amended. Senator Reitz seconded the motion. The motion carried.

Senator Owens moved to strike the language of **HB 2180** and inset the language of SB 401 as amended. Senator Reitz seconded the motion. The motion carried.

Senator Morris moved to remove the Wichita election language in New. Sec. 2, on page 2, starting on line 20. Senator Francisco seconded the motion. The motion carried.

Senator Owens moved to pass **Senate Substitute for HB 2180** out favorably. Senator Reitz seconded the motion. Division was called and the motion carried on a 5 to 4 vote.

The meeting was adjourned at 9:15 a.m.

3/24

SENATE BILL No. 401

By Committee on Federal and State Affairs

1-20

9 AN ACT concerning the Kansas expanded lottery act; relating to race-
10 track gaming facilities; creating the Kansas agricultural opportunity act;
11 amending K.S.A. 2009 Supp. 74-8734, 74-8741, 74-8744, 74-8747, 74-
12 8751 and 74-8768 and repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

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

23 New Sec. 2. (a) The official horse registering agency designated by
24 the Kansas racing and gaming commission pursuant to K.S.A. 74-8830,
25 and amendments thereto, shall be responsible for implementing proce-
26 dures and making recommendations related to the operation of live horse
27 racing pursuant to the requirements of section 3, and amendments
28 thereto.

29 (b) The official greyhound registering agency designated by the Kan-
30 sas racing and gaming commission pursuant to K.S.A. 74-8832, and
31 amendments thereto, shall be responsible for implementing procedures
32 and making recommendations related to the operation of live greyhound
33 racing pursuant to the requirements of section 3, and amendments
34 thereto.

35 New Sec. 3. (a) On or before December 1, the official breed regis-
36 tering agencies for both horse and greyhound breeds shall make recom-
37 mendations to the Kansas racing and gaming commission for implemen-
38 tation of programs which will maximize the benefit to economic
39 development in rural Kansas from purse supplements paid pursuant to
40 K.S.A. 2009 Supp. 74-8747, and amendments thereto. Such recommen-
41 dations made by each breed registering agency shall consider the
42 following:

43 (1) Increasing the number of registered breed horses bred in Kansas

Senate Committee on Federal and State Affairs

SB 401 Balloon

Prepared by: J. Long

Sn Fed & State
Attachment 1

3-24-10

1 and mares and stallions domiciled in Kansas;

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

4 (3) increasing the number of horses and greyhounds owned by Kan-
5 sas residents for the purposes of live racing; and

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

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

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

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

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

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

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

24 ~~(b) The board of county commissioners of Sedgwick county shall sub-
25 mit upon presentation of a valid petition filed in accordance with subsec-
26 tion (c), to the qualified voters of the county a proposition to permit the
27 operation of electronic gaming machines at an existing parimutuel race-
28 track within that county. The proposition shall be submitted to the voters
29 at a special election to be held no later than 120 days after the effective
30 date of this section.~~

31 ~~(c) A petition to submit a proposition to the qualified voters of a
32 county pursuant to this section shall be filed with the county election
33 officer. The petition shall be signed by not less than 5,000 qualified voters
34 of the county. The following shall appear on the petition: "We request
35 an election to determine whether the operation of electronic gaming ma-
36 chines at parimutuel racetrack facilities by the Kansas lottery shall be
37 permitted in Sedgwick county."~~

38 ~~(d) Upon the submission of a petition, the county election officer shall
39 determine whether a sufficient number of qualified voters of the county
40 have signed such petition. If the submitted petition calling for an election
41 pursuant to this section is deemed valid, the county election officer shall
42 cause the following proposition to be placed on the ballot at the election
43 called for that purpose: "Shall the operation of electronic gaming ma-~~

1 ~~achines at the Wichita Greyhound Park by the Kansas lottery be permitted~~
2 ~~in Sedgwick county?":~~

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

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

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

20 ~~(h) This section shall be a part of and supplemental to the Kansas~~
21 ~~expanded lottery act.]~~

22 Sec. 5. K.S.A. 2009 Supp. 74-8734 is hereby amended to read as
23 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
24 facility in each gaming zone.

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

33 (c) The lottery commission shall adopt standards to promote the in-
34 tegrity of the gaming and finances of lottery gaming facilities, which shall
35 apply to all management contracts, shall meet or exceed industry stan-
36 dards for monitoring and controlling the gaming and finances of gaming
37 facilities and shall give the executive director sufficient authority to mon-
38 itor and control the gaming operation and to ensure its integrity and
39 security.

40 (d) The Kansas lottery commission may approve management con-
41 tracts with one or more prospective lottery gaming facility managers to
42 manage, or construct and manage, on behalf of the state of Kansas and
43 subject to the operational control of the Kansas lottery, a lottery gaming

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

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

18 (f) Subject to the requirements of this section, the commission shall
19 approve at least one proposed lottery gaming facility management con-
20 tract for a lottery gaming facility in each gaming zone.

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

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

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

40 (2) the commission determines that the proposed development con-
41 sists of an investment in infrastructure, including ancillary lottery gaming
42 facility operations, of at least \$225,000,000 in the northeast, ~~southeast~~ and
43 south central Kansas gaming zones ~~and~~, of at least \$100,000,000 in the

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

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

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

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

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

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

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

24 (6) provide for the prospective lottery gaming facility manager, upon
25 approval of the proposed lottery gaming facility management contract, to
26 pay to the state treasurer a privilege fee of: (A) \$25,000,000 for the priv-
27 ilege of being selected as a lottery gaming facility manager of a lottery
28 gaming facility in the northeast, ~~southeast~~ or south central Kansas gaming
29 zone ~~and~~; (B) \$11,000,000 for the privilege of being selected as a lottery
30 gaming facility manager of a lottery gaming facility in the southeast Kan-
31 sas gaming zone; and (C) \$5,500,000 for the privilege of being selected
32 as a lottery gaming facility manager of a lottery gaming facility in the
33 southwest Kansas gaming zone. Such fee shall be deposited in the state
34 treasury and credited to the lottery gaming facility manager fund, which
35 is hereby created in the state treasury;

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

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

42 (9) include financing commitments for construction;

43 (10) include a resolution of endorsement from the city governing

1 body, if the proposed facility is within the corporate limits of a city, or
2 from the county commission, if the proposed facility is located in the
3 unincorporated area of the county;

4 (11) include a requirement that any parimutuel licensee developing
5 a lottery gaming facility pursuant to this act comply with all orders and
6 rules and regulations of the Kansas racing and gaming commission with
7 regard to the conduct of live racing, including the same minimum days
8 of racing as specified in K.S.A. 2009 Supp. 74-8746, and amendments
9 thereto, for operation of electronic gaming machines at racetrack gaming
10 facilities;

11 (12) include a provision for the state to receive not less than 22% of
12 lottery gaming facility revenues, which shall be paid to the expanded
13 lottery act revenues fund established by K.S.A. 2009 Supp. 74-8768, and
14 amendments thereto;

15 (13) include a provision for 2% of lottery gaming facility revenues to
16 be paid to the problem gambling and addictions grant fund established
17 by K.S.A. 2009 Supp. 79-4805, and amendments thereto;

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

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

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

1 cated and an amount equal to 1% of such revenues to the other county
2 in such zone; or (B) if the lottery gaming facility is located in the southeast
3 or south central Kansas gaming zone and is located within a city, provide
4 for payment of an amount equal to 1% of the lottery gaming facility
5 revenues to the city in which the lottery gaming facility is located, an
6 amount equal to 1% of such revenues to the county in which such facility
7 is located and an amount equal to 1% of such revenues to the other county
8 in such zone;

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

18 (18) include provisions for the Kansas racing and gaming commission
19 to oversee all lottery gaming facility operations, including, but not limited
20 to: Oversight of internal controls; oversight of security of facilities; per-
21 formance of background investigations, determination of qualifications
22 and credentialing of employees, contractors and agents of the lottery gam-
23 ing facility manager and of ancillary lottery gaming facility operations, as
24 determined by the Kansas racing and gaming commission; auditing of
25 lottery gaming facility revenues; enforcement of all state laws and main-
26 tenance of the integrity of gaming operations; and

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

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

43 (j) Any proposed management contract for which the privilege fee

1 has not been paid to the state treasurer within 30 days after the date of
2 approval of the management contract shall be null and void.

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

6 (l) Management contracts authorized by this section may include pro-
7 visions relating to:

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

10 (2) minimum requirements for a lottery gaming facility manager to
11 provide qualified oversight, security and supervision of the lottery facility
12 games including the use of qualified personnel with experience in appli-
13 cable technology;

14 (3) eligibility requirements for employees, contractors or agents of a
15 lottery gaming facility manager who will have responsibility for or involve-
16 ment with actual gaming activities or for the handling of cash or tokens;

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

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

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

25 (7) any other provision deemed necessary by the parties, including
26 such other terms and restrictions as necessary to conduct any lottery fa-
27 cility game in a legal and fair manner.

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

36 (n) (1) The Kansas lottery shall be the licensee and owner of all soft-
37 ware programs used at a lottery gaming facility for any lottery facility
38 game.

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

43 (o) A lottery gaming facility shall comply with any planning and zon-

1 ing regulations of the city or county in which it is to be located. The
2 executive director shall not contract with any prospective lottery gaming
3 facility manager for the operation and management of such lottery gaming
4 facility unless such manager first receives any necessary approval under
5 planning and zoning requirements of the city or county in which it is to
6 be located.

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

14 Sec. 6. K.S.A. 2009 Supp. 74-8741 is hereby amended to read as
15 follows: 74-8741. (a) The executive director of the Kansas lottery shall
16 negotiate a racetrack gaming facility management contract to place elec-
17 tronic gaming machines at one parimutuel licensee location in each gam-
18 ing zone except the southwest Kansas gaming zone.

19 (b) To be eligible to enter into a racetrack gaming facility manage-
20 ment contract the prospective racetrack gaming facility manager shall, at
21 a minimum:

22 (1) Have sufficient access to financial resources to support the activ-
23 ities required of a racetrack gaming facility manager under the Kansas
24 expanded lottery act; and

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

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

31 (1) The term of the contract;

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

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

1 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
2 2032, from (i) entering into management contracts for more than ~~three~~
3 *four* lottery gaming facilities or similar gaming facilities, one to be located
4 in the northeast Kansas gaming zone, one to be located in the south
5 central Kansas gaming zone ~~and~~, one to be located in the southeast Kansas
6 gaming zone *and one to be located in the southwest Kansas gaming zone*,
7 (ii) designating additional areas of the state where operation of lottery
8 gaming facilities or similar gaming facilities would be authorized or (iii)
9 operating an aggregate of more than 2,800 electronic gaming machines
10 at all parimutuel licensee locations; and (B) requiring the state to repay
11 to the racetrack gaming facility manager an amount equal to the privilege
12 fee paid by such racetrack gaming facility manager, plus interest on such
13 amount, compounded annually at the rate of 10%, if the state violates the
14 prohibition provision described in (A).

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 ma-
18 chine income, unclaimed prizes and credits;

19 (2) minimum requirements for a racetrack gaming facility manager
20 to provide qualified oversight, security and supervision of electronic gam-
21 ing 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 in-
25 volvement 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, con-
30 tractor 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 gam-
36 ing 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 consti-
41 tute property, nor shall it be subject to attachment, garnishment or exe-
42 cution, nor shall it be alienable or transferable, except upon approval by
43 the executive director, nor shall it be subject to being encumbered or

1 hypothecated.

2 Sec. 7. K.S.A. 2009 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
5 for the implementation and administration of the provisions of this act
6 relating to racetrack gaming facility operations, including the responsi-
7 bility to:

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

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

14 (A) The number of electronic gaming machines allocated for place-
15 ment at each racetrack gaming facility, subject to the provisions of sub-
16 section (b);

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

19 (C) the kind, type, number and location of electronic gaming ma-
20 chines at any racetrack gaming facility; and

21 (D) rules and regulations and procedures for the accounting and re-
22 porting of the payments required from racetrack gaming facility managers
23 under K.S.A. 2009 Supp. 74-8766, and amendments thereto, including
24 the calculations required for such payments.

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

30 (1) At least 600, *but not more than 1,500* electronic gaming machines
31 shall be allocated to and placed at each racetrack gaming facility.

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

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

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

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

16 Sec. 8. K.S.A. 2009 Supp. 74-8747 is hereby amended to read as
17 follows: 74-8747. (a) Net electronic gaming machine income from a race-
18 track gaming facility shall be distributed as follows:

19 (1) To the racetrack gaming facility manager, an amount equal to ~~25%~~
20 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. 2009
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 gam-~~
27 ~~ing machine at each location and any moneys in excess of such amount~~
28 ~~shall be distributed between the state and the racetrack gaming facility~~
29 ~~manager in accordance with the racetrack gaming facility management~~
30 ~~contract;~~

31 (3) 7% of net electronic gaming machine income shall be credited to
32 the live greyhound racing purse supplement fund established by K.S.A.
33 2009 Supp. 74-8767, and amendments thereto, ~~except that the amount~~
34 ~~of net electronic gaming machine income credited to the fund during any~~
35 ~~fiscal year from electronic gaming machines at a racetrack gaming facility~~
36 ~~shall not exceed an amount equal to the average of \$3,750 per electronic~~
37 ~~gaming machine at each location and any moneys in excess of such~~
38 ~~amount shall be distributed between the state and the racetrack gaming~~
39 ~~facility manager in accordance with the racetrack gaming facility man-~~
40 ~~agement contract;~~

41 (4) (A) if the racetrack gaming facility is located in the northeast Kan-
42 sas gaming zone and is not located within a city, include a provision for
43 payment of an amount equal to 3% of the racetrack gaming facility rev-

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

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

22 (6) 2% of net electronic gaming machine income shall be credited to
 23 the problem gambling and addictions grant fund established by K.S.A.
 24 2009 Supp. 79-4805, and amendments thereto;

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

28 (8) ~~40%~~ 22% of net electronic gaming machine income shall be cred-
 29 ited to the expanded lottery act revenues fund; ~~and~~

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

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

38 Sec. 9. K.S.A. 2009 Supp. 74-8751 is hereby amended to read as
 39 follows: 74-8751. The Kansas racing and gaming commission, through
 40 rules and regulations, shall establish:

41 (a) A certification requirement, and enforcement procedure, for of-
 42 ficers, directors, key employees and persons directly or indirectly owning
 43 a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or race-

41-1

1 track gaming facility manager. Such certification requirement shall in-
 2 clude compliance with such security, fitness and background investiga-
 3 tions and standards as the executive director of the Kansas racing and
 4 gaming commission deems necessary to determine whether such person's
 5 reputation, habits or associations pose a threat to the public interest of
 6 the state or to the reputation of or effective regulation and control of the
 7 lottery gaming facility or racetrack gaming facility. *In the case of a publicly*
 8 *traded company subject to the jurisdiction of the United States securities*
 9 *and exchange commission, such certification requirements shall require*
 10 *such security, fitness and background investigations and standards of of-*
 11 *ficers, directors, key gaming employees and persons directly or indirectly*
 12 *owning a 5% or more interest in such entity, and specify that such publicly*
 13 *traded company annually provide a list of all identifiable shareholders.*
 14 *In the case of institutional investors in a publicly traded company, the*
 15 *certification requirement shall provide a procedure for issuance of waivers*
 16 *of the background investigation requirement by the executive director of*
 17 *the Kansas racing and gaming commission. Any person convicted of any*
 18 *felony, a crime involving gambling or a crime of moral turpitude prior to*
 19 *applying for a certificate hereunder or at any time thereafter shall be*
 20 *deemed unfit. The Kansas racing and gaming commission shall conduct*
 21 *the security, fitness and background checks required pursuant to this*
 22 *subsection. Certification pursuant to this subsection shall not be assign-*
 23 *able or transferable;*

24 (b) a certification requirement, and enforcement procedure, for
 25 those persons, including electronic gaming machine manufacturers, tech-
 26 nology providers and computer system providers, who propose to contract
 27 with a lottery gaming facility manager, a racetrack gaming facility manager
 28 or the state for the provision of goods or services related to a lottery
 29 gaming facility or racetrack gaming facility, including management serv-
 30 ices. Such certification requirements shall include compliance with such
 31 security, fitness and background investigations and standards of officers,
 32 directors, key gaming employees and persons directly or indirectly owning
 33 a ~~0-5%~~ 5% or more interest in such entity as the executive director of the
 34 Kansas racing and gaming commission deems necessary to determine
 35 whether such person's reputation, habits and associations pose a threat
 36 to the public interest of the state or to the reputation of or effective
 37 regulation and control of the lottery gaming facility or racetrack gaming
 38 facility. *In the case of a publicly traded company subject to the jurisdiction*
 39 *of the United States securities and exchange commission,* such certification
 40 *requirements shall require such security, fitness and background inves-*
 41 *tigations and standards of officers, directors, key gaming employees and*
 42 *persons directly or indirectly owning a 5% or more interest in such entity,*
 43 *and specify that such publicly traded company annually provide a list of*

or equivalent foreign securities law

1 *all identifiable shareholders. In the case of institutional investors in a*
2 *publicly traded company, the certification requirement shall provide a*
3 *procedure for issuance of waivers of the background investigation re-*
4 *quirement by the executive director of the Kansas racing and gaming*
5 *commission. Any person convicted of any felony, a crime involving gam-*
6 *bling or a crime of moral turpitude prior to applying for a certificate*
7 *hereunder or at any time thereafter shall be deemed unfit. If the executive*
8 *director of the racing and gaming commission determines the certification*
9 *standards of another state are comprehensive, thorough and provide sim-*
10 *ilar adequate safeguards, the executive director may certify an applicant*
11 *already certified in such state without the necessity of a full application*
12 *and background check. The Kansas racing and gaming commission shall*
13 *conduct the security, fitness and background checks required pursuant*
14 *to this subsection. Certification pursuant to this subsection shall not be*
15 *assignable or transferable;*

16 (c) provisions for revocation of a certification required by subsection
17 (a) or (b) upon a finding that the certificate holder, an officer or director
18 thereof or a person directly or indirectly owning a ~~0.5%~~ 5% or more
19 interest therein: (1) Has knowingly provided false or misleading material
20 information to the Kansas lottery or its employees; or (2) has been con-
21 victed of a felony, gambling related offense or any crime of moral turpi-
22 tude; and

23 (d) provisions for suspension, revocation or nonrenewal of a certifi-
24 cation required by subsection (a) or (b) upon a finding that the certificate
25 holder, an officer or director thereof or a person directly or indirectly
26 owning a ~~0.5%~~ 5% or more interest therein: (1) Has failed to notify the
27 Kansas lottery about a material change in ownership of the certificate
28 holder, or any change in the directors or officers thereof; (2) is delinquent
29 in remitting money owed to the Kansas lottery; (3) has violated any pro-
30 vision of any contract between the Kansas lottery and the certificate
31 holder; or (4) has violated any provision of the Kansas expanded lottery
32 act or any rule and regulation adopted hereunder.

33 Sec. 10. K.S.A. 2009 Supp. 74-8768 is hereby amended to read as
34 follows: 74-8768. There is hereby created the expanded lottery act reve-
35 nues fund in the state treasury. All expenditures and transfers from such
36 fund shall be made in accordance with appropriation acts. All moneys
37 credited to such fund shall be expended or transferred only for the pur-
38 poses of reduction of state debt, state infrastructure improvements, *ex-*
39 *penditures by the Kansas public employees retirement system to be ap-*
40 *plied to the payment of the unfunded actuarial liability of the state for*
41 *the state of Kansas and participating employers under K.S.A. 74-4931,*
42 *and amendments thereto, portion of such liability, as directed by the Kan-*
43 *sas public employees retirement system and reduction of local ad valorem*

1-16

1 tax in the same manner as provided for allocation of amounts in the local
2 ad valorem tax reduction fund.

3 Sec. 11. K.S.A. 2009 Supp. 74-8734, 74-8741, 74-8744, 74-8747, 74-
4 8751 and 74-8768 are hereby repealed.

5 Sec. 12. This act shall take effect and be in force from and after its
6 publication in the Kansas register.