

SENATE BILL No. 273

By Committee on Federal and State Affairs

2-12

9 AN ACT concerning the Kansas expanded lottery act; relating to race-
10 track gaming facilities; amending K.S.A. 2008 Supp. 74-8734, 74-8744,
11 74-8747 and 74-8751 and repealing the existing sections.
12

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

14 New Section 1. (a) The board of county commissioners of Sedgwick
15 county shall submit by resolution to the qualified voters of the county a
16 proposition to permit the operation of electronic gaming machines at an
17 existing parimutuel racetrack within that county. The proposition shall be
18 submitted to the voters at a special election, to be held no later than 120
19 days after the effective date of this act.

20 (b) Upon the adoption of a resolution calling for an election pursuant
21 to this section, the county election officer shall cause the following prop-
22 osition to be placed on the ballot at the election called for that purpose:
23 “Shall the operation of electronic gaming machines at the Wichita grey-
24 hound park by the Kansas lottery be permitted in Sedgwick county?”

25 (c) If a majority of the votes cast and counted at such election is in
26 favor of permitting the operation of such machines, the executive director
27 may enter into a contract with the parimutuel racetrack facility licensee
28 in Sedgwick county to operate such machines at its existing location in
29 the county. If a majority of the votes cast and counted at an election under
30 this section is against permitting the operation of electronic gaming ma-
31 chines in the county, the Kansas lottery shall not operate such machines
32 in the county. The county election officer shall transmit a copy of the
33 certification of the results of the election to the executive director and to
34 the Kansas racing and gaming commission.

35 (d) The election provided for by this section shall be conducted, and
36 the votes counted and canvassed, in the manner provided by law for
37 question submitted elections of the county.

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

42 (f) This section shall be a part of and supplemental to the Kansas
43 expanded lottery act.

- 1 Sec. 2. K.S.A. 2008 Supp. 74-8734 is hereby amended to read as
2 follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming
3 facility in each gaming zone.
- 4 (b) Not more than 30 days after the effective date of this act the
5 lottery commission shall adopt and publish in the Kansas register the
6 procedure for receiving, considering and approving, proposed lottery
7 gaming facility management contracts. Such procedure shall include pro-
8 visions for review of competitive proposals within a gaming zone and the
9 date by which proposed lottery gaming facility management contracts
10 must be received by the lottery commission if they are to receive
11 consideration.
- 12 (c) The lottery commission shall adopt standards to promote the in-
13 tegrity of the gaming and finances of lottery gaming facilities, which shall
14 apply to all management contracts, shall meet or exceed industry stan-
15 dards for monitoring and controlling the gaming and finances of gaming
16 facilities and shall give the executive director sufficient authority to mon-
17 itor and control the gaming operation and to ensure its integrity and
18 security.
- 19 (d) The Kansas lottery commission may approve management con-
20 tracts with one or more prospective lottery gaming facility managers to
21 manage, or construct and manage, on behalf of the state of Kansas and
22 subject to the operational control of the Kansas lottery, a lottery gaming
23 facility or lottery gaming enterprise at specified destination locations
24 within the northeast, south central, southwest and southeast Kansas gam-
25 ing zones where the commission determines the operation of such facility
26 would promote tourism and economic development. The commission
27 shall approve or disapprove a proposed management contract within 90
28 days after the deadline for receipt of proposals established pursuant to
29 subsection (b).
- 30 (e) In determining whether to approve a management contract with
31 a prospective lottery gaming facility manager to manage a lottery gaming
32 facility or lottery gaming enterprise pursuant to this section, the com-
33 mission shall take into consideration the following factors: The size of the
34 proposed facility; the geographic area in which such facility is to be lo-
35 cated; the proposed facility's location as a tourist and entertainment des-
36 tination; the estimated number of tourists that would be attracted by the
37 proposed facility; the number and type of lottery facility games to be
38 operated at the proposed facility; and agreements related to ancillary lot-
39 tery gaming facility operations.
- 40 (f) Subject to the requirements of this section, the commission shall
41 approve at least one proposed lottery gaming facility management con-
42 tract for a lottery gaming facility in each gaming zone.
- 43 (g) The commission shall not approve a management contract unless:

- 1 (1) (A) The prospective lottery gaming facility manager is a resident
2 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
3 to financial resources to support the activities required of a lottery gaming
4 facility manager under the Kansas expanded lottery act; and (ii) has three
5 consecutive years' experience in the management of gaming which would
6 be class III gaming, as defined in K.S.A. 46-2301, and amendments
7 thereto, operated pursuant to state or federal law; or
8 (B) the prospective lottery gaming facility manager is not a resident
9 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access
10 to financial resources to support the activities required of a lottery gaming
11 facility manager under the Kansas expanded lottery act; (ii) is current in
12 filing all applicable tax returns and in payment of all taxes, interest and
13 penalties owed to the state of Kansas and any taxing subdivision where
14 such prospective manager is located in the state of Kansas, excluding
15 items under formal appeal pursuant to applicable statutes; and (iii) has
16 three consecutive years' experience in the management of gaming which
17 would be class III gaming, as defined in K.S.A. 46-2301, and amendments
18 thereto, operated pursuant to state or federal law; and
19 (2) the commission determines that the proposed development con-
20 sists of an investment in infrastructure, including ancillary lottery gaming
21 facility operations, of at least \$225,000,000 in the northeast, southeast and
22 south central Kansas gaming zones and \$50,000,000 in the southwest
23 Kansas gaming zone. The commission, in determining whether the min-
24 imum investment required by this subsection is met, shall not include
25 any amounts derived from or financed by state or local retailers' sales tax
26 revenues.
27 (h) Any management contract approved by the commission under
28 this section shall:
29 (1) Have a maximum initial term of 15 years from the date of opening
30 of the lottery gaming facility. At the end of the initial term, the contract
31 may be renewed by mutual consent of the state and the lottery gaming
32 facility manager;
33 (2) specify the total amount to be paid to the lottery gaming facility
34 manager pursuant to the contract;
35 (3) establish a mechanism to facilitate payment of lottery gaming fa-
36 cility expenses, payment of the lottery gaming facility manager's share of
37 the lottery gaming facility revenues and distribution of the state's share
38 of the lottery gaming facility revenues;
39 (4) include a provision for the lottery gaming facility manager to pay
40 the costs of oversight and regulation of the lottery gaming facility manager
41 and the operations of the lottery gaming facility by the Kansas racing and
42 gaming commission;
43 (5) establish the types of lottery facility games to be installed in such

1 facility;

2 (6) provide for the prospective lottery gaming facility manager, upon
3 approval of the proposed lottery gaming facility management contract, to
4 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege
5 of being selected as a lottery gaming facility manager of a lottery gaming
6 facility in the northeast, southeast or south central Kansas gaming zone
7 and \$5,500,000 for the privilege of being selected as a lottery gaming
8 facility manager of a lottery gaming facility in the southwest Kansas gam-
9 ing zone. Such fee shall be deposited in the state treasury and credited
10 to the lottery gaming facility manager fund, which is hereby created in
11 the state treasury;

12 (7) incorporate terms and conditions for the ancillary lottery gaming
13 facility operations;

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

18 (9) include financing commitments for construction;

19 (10) include a resolution of endorsement from the city governing
20 body, if the proposed facility is within the corporate limits of a city, or
21 from the county commission, if the proposed facility is located in the
22 unincorporated area of the county;

23 (11) include a requirement that any parimutuel licensee developing
24 a lottery gaming facility pursuant to this act comply with all orders and
25 rules and regulations of the Kansas racing and gaming commission with
26 regard to the conduct of live racing, including the same minimum days
27 of racing as specified in K.S.A. 2008 Supp. 74-8746, and amendments
28 thereto, for operation of electronic gaming machines at racetrack gaming
29 facilities;

30 (12) include a provision for the state to receive not less than 22% of
31 lottery gaming facility revenues, which shall be paid to the expanded
32 lottery act revenues fund established by K.S.A. 2008 Supp. 74-8768, and
33 amendments thereto;

34 (13) include a provision for 2% of lottery gaming facility revenues to
35 be paid to the problem gambling and addictions grant fund established
36 by K.S.A. 2008 Supp. 79-4805, and amendments thereto;

37 (14) if the prospective lottery gaming facility manager is an American
38 Indian tribe, include a provision that such tribe agrees to waive its sov-
39 ereign immunity with respect to any actions arising from or to enforce
40 either the Kansas expanded lottery act or any provision of the lottery
41 gaming facility management contract; any action brought by an injured
42 patron or by the state of Kansas; any action for purposes of enforcing the
43 workers compensation act or any other employment or labor law; and any

1 action to enforce laws, rules and regulations and codes pertaining to
2 health, safety and consumer protection; and for any other purpose
3 deemed necessary by the executive director to protect patrons or em-
4 ployees and promote fair competition between the tribe and others seek-
5 ing a lottery gaming facility management contract;

6 (15) (A) if the lottery gaming facility is located in the northeast or
7 southwest Kansas gaming zone and is not located within a city, include a
8 provision for payment of an amount equal to 3% of the lottery gaming
9 facility revenues to the county in which the lottery gaming facility is lo-
10 cated; or (B) if the lottery gaming facility is located in the northeast or
11 southwest Kansas gaming zone and is located within a city, include pro-
12 vision for payment of an amount equal to 1.5% of the lottery gaming
13 facility revenues to the city in which the lottery gaming facility is located
14 and an amount equal to 1.5% of such revenues to the county in which
15 such facility is located;

16 (16) (A) if the lottery gaming facility is located in the southeast or
17 south central Kansas gaming zone and is not located within a city, include
18 a provision for payment of an amount equal to 2% of the lottery gaming
19 facility revenues to the county in which the lottery gaming facility is lo-
20 cated and an amount equal to 1% of such revenues to the other county
21 in such zone; or (B) if the lottery gaming facility is located in the southeast
22 or south central Kansas gaming zone and is located within a city, provide
23 for payment of an amount equal to 1% of the lottery gaming facility
24 revenues to the city in which the lottery gaming facility is located, an
25 amount equal to 1% of such revenues to the county in which such facility
26 is located and an amount equal to 1% of such revenues to the other county
27 in such zone;

28 (17) allow the lottery gaming facility manager to manage the lottery
29 gaming facility in a manner consistent with this act and applicable law,
30 but shall place full, complete and ultimate ownership and operational
31 control of the gaming operation of the lottery gaming facility with the
32 Kansas lottery. The Kansas lottery shall not delegate and shall explicitly
33 retain the power to overrule any action of the lottery gaming facility man-
34 ager affecting the gaming operation without prior notice. The Kansas
35 lottery shall retain full control over all decisions concerning lottery gaming
36 facility games;

37 (18) include provisions for the Kansas racing and gaming commission
38 to oversee all lottery gaming facility operations, including, but not limited
39 to: Oversight of internal controls; oversight of security of facilities; per-
40 formance of background investigations, determination of qualifications
41 and credentialing of employees, contractors and agents of the lottery gam-
42 ing facility manager and of ancillary lottery gaming facility operations, as
43 determined by the Kansas racing and gaming commission; auditing of

1 lottery gaming facility revenues; enforcement of all state laws and main-
2 tenance of the integrity of gaming operations; and
3 (19) include enforceable provisions: (A) Prohibiting the state, until
4 July 1, 2032, from (i) entering into management contracts for more than
5 four lottery gaming facilities or similar gaming facilities, one to be located
6 in the northeast Kansas gaming zone, one to be located in the south
7 central Kansas gaming zone, one to be located in the southwest Kansas
8 gaming zone and one to be located in the southeast Kansas gaming zone,
9 (ii) designating additional areas of the state where operation of lottery
10 gaming facilities or similar gaming facilities would be authorized or (iii)
11 operating an aggregate of more than 2,800 electronic gaming machines
12 at all parimutuel licensee locations; and (B) requiring the state to repay
13 to the lottery gaming facility manager an amount equal to the privilege
14 fee paid by such lottery gaming facility manager, plus interest on such
15 amount, compounded annually at the rate of 10%, if the state violates the
16 prohibition provision described in (A).
17 (i) The power of eminent domain shall not be used to acquire any
18 interest in real property for use in a lottery gaming enterprise.
19 (j) Any proposed management contract for which the privilege fee
20 has not been paid to the state treasurer within 30 days after the date of
21 approval of the management contract shall be null and void.
22 (k) A person who is the manager of the racetrack gaming facility in a
23 gaming zone shall not be eligible to be the manager of the lottery gaming
24 facility in the same zone.
25 (l) Management contracts authorized by this section may include provi-
26 sions relating to:
27 (1) Accounting procedures to determine the lottery gaming facility
28 revenues, unclaimed prizes and credits;
29 (2) minimum requirements for a lottery gaming facility manager to
30 provide qualified oversight, security and supervision of the lottery facility
31 games including the use of qualified personnel with experience in appli-
32 cable technology;
33 (3) eligibility requirements for employees, contractors or agents of a
34 lottery gaming facility manager who will have responsibility for or involve-
35 ment with actual gaming activities or for the handling of cash or tokens;
36 (4) background investigations to be performed by the Kansas racing
37 and gaming commission;
38 (5) credentialing requirements for any employee, contractor or agent
39 of the lottery gaming facility manager or of any ancillary lottery gaming
40 facility operation as provided by the Kansas expanded lottery act or rules
41 and regulations adopted pursuant thereto;
42 (6) provision for termination of the management contract by either
43 party for cause; and

- 1 (7) any other provision deemed necessary by the parties, including
2 such other terms and restrictions as necessary to conduct any lottery fa-
3 cility game in a legal and fair manner.
- 4 (m) A management contract shall not constitute property, nor shall
5 it be subject to attachment, garnishment or execution, nor shall it be
6 alienable or transferable, except upon approval by the executive director,
7 nor shall it be subject to being encumbered or hypothecated. The trustee
8 of any insolvent or bankrupt lottery gaming facility manager may continue
9 to operate pursuant to the management contract under order of the ap-
10 propriate court for no longer than one year after the bankruptcy or in-
11 solvency of such manager.
- 12 (n) (1) The Kansas lottery shall be the licensee and owner of all *cen-*
13 *tral computer* software programs used ~~at a lottery gaming facility for to~~
14 *monitor or control* any lottery facility game.
- 15 (2) A lottery gaming facility manager, on behalf of the state, shall
16 purchase or lease for the Kansas lottery all lottery facility games. All lot-
17 tery facility games shall be subject to the ultimate control of the Kansas
18 lottery in accordance with this act.
- 19 (o) A lottery gaming facility shall comply with any planning and zon-
20 ing regulations of the city or county in which it is to be located. The
21 executive director shall not contract with any prospective lottery gaming
22 facility manager for the operation and management of such lottery gaming
23 facility unless such manager first receives any necessary approval under
24 planning and zoning requirements of the city or county in which it is to
25 be located.
- 26 (p) Prior to expiration of the term of a lottery gaming facility man-
27 agement contract, the lottery commission may negotiate a new lottery
28 gaming facility management contract with the lottery gaming facility man-
29 ager if the new contract is substantially the same as the existing contract.
30 Otherwise, the lottery gaming facility review board shall be reconstituted
31 and a new lottery gaming facility management contract shall be negotiated
32 and approved in the manner provided by this act.
- 33 Sec. 3. K.S.A. 2008 Supp. 74-8744 is hereby amended to read as
34 follows: 74-8744. (a) In accordance with rules and regulations adopted by
35 the commission, the executive director shall have general responsibility
36 for the implementation and administration of the provisions of this act
37 relating to racetrack gaming facility operations, including the responsi-
38 bility to:
- 39 (1) Certify net electronic gaming machine income by inspecting re-
40 cords, conducting audits, having agents of the Kansas lottery on site or
41 by any other reasonable means; and
- 42 (2) assist the commission in the promulgation of rules and regulations
43 concerning the operation of racetrack gaming facilities, which rules and

1 regulations shall include, without limitation, the following:

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

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

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

9 (D) rules and regulations and procedures for the accounting and re-
10 porting of the payments required from racetrack gaming facility managers
11 under K.S.A. 2008 Supp. 74-8766, and amendments thereto, including
12 the calculations required for such payments.

13 (b) Rules and regulations establishing the minimum and maximum
14 number of electronic gaming machines allocated for placement at each
15 racetrack gaming facility shall be adopted and published not later than
16 120 days after the effective date of this act. Such rules and regulations
17 shall be subject to the following:

18 (1) At least 600 electronic gaming machines shall be allocated to and
19 placed at each racetrack gaming facility.

20 (2) The total number of electronic gaming machines allocated to and
21 placed at all racetrack gaming facilities in the state shall not exceed 2,800.
22 ~~Until lottery gaming facility management contracts for lottery gaming~~
23 ~~facilities in all gaming zones become binding, the total number of elec-~~
24 ~~tronic gaming machines placed at all racetrack gaming facilities shall not~~
25 ~~exceed 2,200. When lottery gaming facility management contracts for~~
26 ~~lottery gaming facilities in all gaming zones have become binding, the~~
27 ~~lottery commission shall take privilege fee bids from the lottery gaming~~
28 ~~facility manager and racetrack gaming facility manager in each gaming~~
29 ~~zone for the remaining electronic gaming machines allocated to but not~~
30 ~~yet placed at the racetrack gaming facility in such zone. The minimum~~
31 ~~bid shall be a privilege fee of \$2,500 per electronic gaming machine. If~~
32 ~~the racetrack gaming facility manager submits the highest bid, the lottery~~
33 ~~commission shall place the remaining electronic gaming machines at the~~
34 ~~racetrack gaming facility. If the lottery gaming facility manager submits~~
35 ~~the highest bid, the commission shall not place any additional electronic~~
36 ~~gaming machines at the racetrack gaming facility.~~

37 (3) ~~In addition to any privilege fee paid pursuant to paragraph (2),~~
38 ~~each~~ Each racetrack gaming facility manager shall pay a privilege fee of
39 \$2,500 for each electronic gaming machine placed at the racetrack gaming
40 facility ~~for which a privilege fee is not paid pursuant to paragraph (2).~~

41 (4) The racetrack gaming facility manager shall pay the privilege fees
42 provided by this subsection to the executive director, who shall remit the
43 entire amount to the state treasurer in accordance with K.S.A. 75-4215,

1 and amendments thereto. Upon receipt of the remittance, the state trea-
2 surer shall deposit the entire amount in the state treasury and credit it to
3 the expanded lottery act revenues fund.

4 Sec. 4. K.S.A. 2008 Supp. 74-8747 is hereby amended to read as
5 follows: 74-8747. (a) Net electronic gaming machine income from a race-
6 track gaming facility shall be distributed as follows:

7 (1) To the racetrack gaming facility manager, an amount equal to ~~25%~~
8 43% of net electronic gaming machine income;

9 (2) 7% of net electronic gaming machine income shall be credited to
10 the live horse racing purse supplement fund established by K.S.A. 2008
11 Supp. 74-8767, and amendments thereto, ~~except that the amount of net~~
12 ~~electronic gaming machine income credited to the fund during any fiscal~~
13 ~~year from electronic gaming machines at a racetrack gaming facility shall~~
14 ~~not exceed an amount equal to the average of \$3,750 per electronic gam-~~
15 ~~ing machine at each location and any moneys in excess of such amount~~
16 ~~shall be distributed between the state and the racetrack gaming facility~~
17 ~~manager in accordance with the racetrack gaming facility management~~
18 ~~contract;~~

19 (3) 7% of net electronic gaming machine income shall be credited to
20 the live greyhound racing purse supplement fund established by K.S.A.
21 2008 Supp. 74-8767, and amendments thereto, ~~except that the amount~~
22 ~~of net electronic gaming machine income credited to the fund during any~~
23 ~~fiscal year from electronic gaming machines at a racetrack gaming facility~~
24 ~~shall not exceed an amount equal to the average of \$3,750 per electronic~~
25 ~~gaming machine at each location and any moneys in excess of such~~
26 ~~amount shall be distributed between the state and the racetrack gaming~~
27 ~~facility manager in accordance with the racetrack gaming facility man-~~
28 ~~agement contract;~~

29 (4) (A) if the racetrack gaming facility is located in the northeast Kan-
30 sas gaming zone and is not located within a city, include a provision for
31 payment of an amount equal to 3% of the racetrack gaming facility rev-
32 enues[*] to the county in which the racetrack gaming facility is located;
33 or (B) if the racetrack gaming facility is located in the northeast Kansas
34 gaming zone and is located within a city, include provision for payment
35 of an amount equal to 1.5% of the racetrack gaming facility revenues[*]to
36 the city in which the racetrack gaming facility is located and an amount
37 equal to 1.5% of such revenues to the county in which such facility is
38 located;

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

1 in such zone; or (B) if the racetrack gaming facility is located in the
2 southeast or south central Kansas gaming zone and is located within a
3 city, provide for payment of an amount equal to 1% of the racetrack
4 gaming facility revenues[*] to the city in which the racetrack gaming fa-
5 cility is located, an amount equal to 1% of such revenues to the county
6 in which such facility is located and an amount equal to 1% of such rev-
7 enues to the other county in such zone;

8 (6) 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 2008 Supp. 79-4805, and amendments thereto;

11 (7) 1% of net electronic gaming machine income shall be credited to
12 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,
13 and amendments thereto;

14 (8) ~~40%~~ 22% of net electronic gaming machine income shall be cred-
15 ited to the expanded lottery act revenues fund; and

16 (9) 15% of electronic gaming machine income shall be used for gam-
17 ing expenses *of the racetrack gaming facility manager*, subject to agree-
18 ment between the Kansas lottery and the racetrack gaming facility
19 manager.

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

25 Sec. 5. K.S.A. 2008 Supp. 74-8751 is hereby amended to read as
26 follows: 74-8751. The Kansas racing and gaming commission, through
27 rules and regulations, shall establish:

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

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

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

1 subsection. Certification pursuant to this subsection shall not be assign-
2 able or transferable;

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

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

20 Sec. 6. K.S.A. 2008 Supp. 74-8734, 74-8744, 74-8747 and 74-8751
21 are hereby repealed.

22 Sec. 7. This act shall take effect and be in force from and after its
23 publication in the Kansas register.